

# NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

## NOTICE OF FINAL RULEMAKING

### TITLE 6. ECONOMIC SECURITY

#### CHAPTER 9. DEPARTMENT OF ECONOMIC SECURITY APPELLATE SERVICE ADMINISTRATION

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 896.) The Governor's Office authorized the notice to proceed through the rulemaking process on August 19, 2010.*

[R13-46]

#### PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| Article 3  | New Article              |
| R6-9-301   | New Section              |
| R6-9-302   | New Section              |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 41-1954(A)(3)  
Implementing statute: A.R.S. §§ 23-671, 23-672, 23-681, 23-682, 23-773, 41-1992, 41-1993 and 41-1995
- 3. The effective date of the rules:**  
June 1, 2013
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**  
Not applicable
- b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**  
Not applicable
- 4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
Notice of Rulemaking Docket Opening: 18 A.A.R. 1078, May 11, 2012  
Notice of Proposed Rulemaking: 18 A.A.R. 2778, November 2, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**  
Name: Rameshwar Adhikari  
Address: Department of Economic Security  
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Phoenix, AZ 85005  
or  
Department of Economic Security  
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Phoenix, AZ 85007

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**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Laws 2008, Second Regular Session, Ch. 98 (H.B. 2204) amended A.R.S. §§ 23-671, 23-672, 23-681, 23-682, 23-773, 41-1992, 41-1993, and 41-1995. H.B. 2204 allows the Appellate Service Administration ("ASA") to transmit electronically, rather than by mail, documents to parties who have consented to such service.

Adopting this rule will accomplish the intent of this legislation by permitting ASA to electronically transmit documents to parties. Implementing these rules will make transmission of documents quicker and less expensive.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. A summary of the economic, small business, and consumer impact:**

The State will achieve a small cost savings from this rule, since it will be able to save money on postage by being permitted to submit documents electronically. ASA estimates it saves approximately \$5,000 to \$10,000 per year from the Unemployment Insurance (UI) fund source, and approximately \$1,000 to \$2,000 per year from the Public Assistance (Non-UI Cases) fund source, as a result of using e-mail to transmit some of its decisions to parties.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

The Department has not made any substantial changes since the Notice of Proposed Rulemaking was published on November 2, 2012, other than minor clarifying typographical and formatting changes that were made at the recommendation of Council staff.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

None

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

These rules do not require a permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

**15. The full text of the rules follows:**

TITLE 6. ECONOMIC SECURITY

CHAPTER 9. DEPARTMENT OF ECONOMIC SECURITY  
APPELLATE SERVICE ADMINISTRATION

ARTICLE 3. DECISIONS, HEARINGS, AND ORDERS

Sections

R6-9-301. Definitions

R6-9-302. Electronic Service of Documents by the Appellate Services Administration

ARTICLE 3. DECISIONS, HEARINGS, AND ORDERS

**R6-9-301.** Definitions

1. “ASA” means the Appellate Services Administration within the Arizona Department of Economic Security.
2. “Electronic transmission” means the service of documents via facsimile transmission (“fax”) and electronic mail (“e-mail”).
3. “On the record” means audio recorded during a formal proceeding conducted by a hearing officer.
4. “Party” means an appellant, appellee, or the Department.

**R6-9-302.** Electronic Service of Documents by the Appellate Services Administration

- A.** ASA may transmit documents electronically, rather than by conventional mail, to parties who have consented to electronic service.
- B.** Consent to Electronic Service.
  1. A party may only consent to be electronically served documents by:
    - a. Submission of a written consent to ASA; or
    - b. Consenting on the record.
  2. The party consenting to electronic service of documents shall provide ASA with either a valid e-mail address or a fax number for service of documents.
  3. The party consenting to electronic service of documents shall also provide ASA with a physical mailing address for ASA to use at its discretion to serve documents. A party may use a post office box as its physical mailing address.
- C.** Withdrawal of Consent to Electronic Service.
  1. A party may withdraw consent to receive documents by electronic means at any time. The withdrawal shall be on the record or in writing to ASA. The withdrawal is effective upon receipt by ASA.
  2. ASA shall treat a notice of a change of electronic address as both a withdrawal of the consent to receive documents at the prior address, and as a new consent to receive documents at the new address.
  3. ASA shall not send documents by electronic means after a party withdraws consent.
  4. ASA shall consider service of a document to have no force or effect if ASA sent the document electronically after a party withdrew consent to receive the document electronically even if the party actually received the electronically transmitted document.
- D.** ASA shall consider a document sent by ASA and received by a party at the Mountain Standard Time and date ASA transmits the document to the electronic address provided by the party.
- E.** ASA shall encrypt any document sent by e-mail.
- F.** Failure of Electronic Service; Effect on Timeliness of Filing.
  1. When a party notifies ASA that the party did not receive an e-mail message from ASA, was unable to open or download an attached document, or was otherwise unable to access the document to be served, ASA shall re-send the document.
  2. ASA shall calculate any filing deadline that is based on the date ASA electronically sends a document as follows:
    - a. If the party does not receive the original e-mail message due to equipment malfunction, action, or inaction of either ASA or a service provider, then the date of service shall be the date ASA re-sends the documents.
    - b. If the party does not receive the original e-mail message due to the party’s own equipment malfunction, action, or inaction:
      - i. The date of service shall be the date of original electronic transmission by ASA, and
      - ii. ASA shall exclude from the calculation the time from when the party gave notice of non-receipt and requested that the document be re-sent until ASA re-sends or mails the document.

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TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 896.)

[R13-53]

**PREAMBLE**

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R12-4-101   | Amend                           |
| R12-4-301   | Amend                           |
| R12-4-302   | Amend                           |
| R12-4-303   | Amend                           |
| R12-4-304   | Amend                           |
| R12-4-305   | Amend                           |
| R12-4-306   | Amend                           |
| R12-4-307   | Amend                           |
| R12-4-308   | Amend                           |
| R12-4-309   | Amend                           |
| R12-4-310   | Amend                           |
| R12-4-311   | Amend                           |
| R12-4-312   | Amend                           |
| R12-4-313   | Amend                           |
| R12-4-315   | Amend                           |
| R12-4-316   | Amend                           |
| R12-4-317   | Amend                           |
| R12-4-318   | Amend                           |
| R12-4-319   | Amend                           |
| R12-4-320   | Amend                           |
| R12-4-322   | New Section                     |
- 2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 17-231(A)(1)  
Implementing statute: A.R.S. §§ 17-102, 17-211(D), 17-211(E)(4), 17-231(A)(2), 17-231(A)(3), 17-231(A)(4), 17-231(B)(8), 17-231(B)(5), 17-231(D), 17-232, 17-234, 17-235, 17-239, 17-250(A)(4), 17-251, 17-301, 17-305, 17-306, 17-307, 17-309, 17-331, 17-332(D), 17-333, 17-333.02, 17-342, 17-343, 17-344, 17-346, 17-361, and 17-371
- 3. The effective date of the rules:**  
July 1, 2013
- a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**  
Not applicable
- b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):**  
July 1, 2013. The Commission requests a later date to allow for implementation of the rule changes. The Commission believes good cause exists for and the public interest will not be harmed by the later date.
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
Notice of Rulemaking Docket Opening: 18 A.A.R., 2505, October 5, 2012  
Notice of Proposed Rulemaking: 18 A.A.R., 2408, October 5, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**  
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Please visit the AZGFD web site to track progress of this rule and any other agency rulemaking matters at [http://www.azgfd.gov/inside\\_azgfd/rules/rulemaking\\_updates.shtml](http://www.azgfd.gov/inside_azgfd/rules/rulemaking_updates.shtml).

**6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The Arizona Game and Fish Commission proposes to amend its Article 3 rules, governing the taking and handling of wildlife, to enact amendments developed during the preceding Five-year Review Report and incorporate recently passed legislation. After evaluating the scope and effectiveness of the proposed amendments specified in the review, the Commission proposes additional amendments to further implement original proposals.

Arizona's great abundance and diversity of native wildlife can be attributed to careful management and the important role of the conservation programs the Arizona Game and Fish Department has developed. The Department's management of both game and nongame species as a public resource depends on sound science and active management. As trustee, the state has no power to delegate its trust duties and no freedom to transfer trust ownership or management of assets to private establishments. Without strict agency oversight and management, the fate of many of our native species would be in jeopardy. Wildlife can be owned by no individual and is held by the state in trust for all the people.

In addition to the nonsubstantive amendments made to ensure compliance with the Administrative Procedures Act, Secretary of State, and G.R.R.C. rulemaking format and style requirements and rewording of rule language to make rules clearer and more concise; the Commission proposes the following substantive amendments:

R12-4-101 is amended to transfer all definitions applicable to only Article 3 rules to R12-4-301 and to transfer "day-long" from R12-4-304 to R12-4-101. The rule is also amended to define "firearm" to ensure consistency between Game and Fish Commission rules. In addition, the rule is amended to remove requirements for the placement of a Department-issued stamp from the definition of "stamp" to make the rule more concise.

R12-4-301 is amended to add definitions for "cervid" and "pre-charged pneumatic weapon" to make rules within Article 3 more clear and concise. In addition, definitions included in R12-4-101 that are applicable to only Article 3 rules and definitions included throughout Article 3 were transferred to R12-4-301.

R12-4-302 is amended to describe the actual Carcass/Transportation/Shipping Permit, which does not have a perforated line, to make the rule easier to understand. The Commission believes the intent of this subsection is to prohibit an individual from allowing another individual to possess or use their tag while hunting. Currently, the rule prohibits an individual from allowing their tag to be attached to wildlife taken by another individual. The rule is also amended to prohibit an individual from allowing their tag to be possessed by another individual. In addition, the rule is amended to clarify that the Transportation and Shipping Permit is no longer considered valid for possessing wildlife when either portion of the permit is sealed, mutilated, signed, or filled out to formalize the Department's current practice.

R12-4-303 is amended to remove language that restricted the use of noise suppressors to comply with statutory amendments resulting Laws 2012, 2nd Regular Session, Ch. 128; remove language that prohibited the possession of certain weapons to comply with statutory amendments resulting Laws 2012, 2nd Regular Session, Ch. 225; and remove language that restricted magazine capacity to comply with statutory amendments resulting from Laws 2012, 2nd Regular Session, Ch. 75 with the exception of migratory game birds as 50 CFR Part 20 prohibits the take of migratory birds using a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells. In addition, A.R.S. § 17-235 authorizes the Commission to modify other regulations on migratory birds as it deems necessary. The rule is amended to remove language that restricted the use of shotgun larger than 10-gauge for the take of wildlife to increase hunter opportunity with the exception of migratory game birds as 50 CFR Part 20 prohibits the take of migratory birds using a shotgun larger than 10-gauge. The rule is amended to prohibit an individual from discharging a pneumatic weapon .30 caliber or larger within one-quarter mile of an occupied structure, unless permitted by the owner or resident to increase consistency between firearms and pre-charged pneumatic weapon regulations. The rule is amended to prohibit the use of scent lures containing any cervid urine to proactively address concerns that products containing cervid urine may facilitate the transmission of diseases among wildlife. The rule is amended to prohibit the use of electronic night vision equipment, electronically enhanced light-gathering devices, thermal imaging devices, or laser sights to prevent the use of this type of equipment for the take of wildlife. This does not include devices such as laser range finders, scopes with self-illuminating reticles, and fiber optic sights that do not project a visible light onto an animal. Because recent amendments to R12-4-304 allow the take of coyotes and mountain lions at night, when authorized by Commission Order, it is necessary to restrict the use of night vision equipment as it provides an advantage to increase safety, protect the sport of hunting, and ensure fair chase. The rule is amended

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to prohibit holding wildlife at bay during daylight hours and injuring, confining, or placing a tracking device on wildlife to prevent “canned” and “will call” hunts. The rule is amended to prohibit an individual from placing any substance, device, or object in, on, or near a water source to intentionally restrict wildlife from using the water source to ensure wildlife have adequate access to water sources. The rule is also amended to prohibit the use of dogs to pursue or hold at bay any wildlife for another hunter unless the hunter is present for the entire pursuit to more closely regulate the pursuit of wildlife with dogs and increase consistency within Commission rules. A continuing Department concern is the occurrence of “will call” hunts, where an individual hunting with the aid of dogs holds wildlife at bay during an open season and calls another hunter who has a tag for the species to make the kill. Because pursuit falls under the definition of take, it is considered a method of take and appropriately included in this rule. This rule amendment is consistent with the rule language contained in R12-4-208 and extends this requirement to all hunters, thus increasing consistency among the current set of rules.

In addition, the Commission proposes to amend R12-4-303 to prohibit the use of edible or ingestible substances to attract big game for the purposes of hunting to proactively address concerns that baiting may facilitate the transmission of diseases among wildlife and placing substances in the wild that contain toxic contaminants and may also result in unnatural concentrations of wildlife. While A.R.S. § 13-2937 prohibits the feeding of wildlife, the law only applies to counties with a population of more than 280,000 persons. Therefore, the Commission believes a rule that prohibits the use of bait is necessary.

**1) Edible and Ingestible Substances Include:** For the purposes of this rulemaking, the Commission considers bait to include any food-stuff or ingestible material, or other artificial attractant that has been deposited, scattered, piled, delivered by a passive or active feeder or feed delivery system so as to constitute an attractant, lure or enticement to wildlife and to influence the movement of these animals for the purpose of harvest by hunters.

**2) Edible and Ingestible Substances Do Not Include:** Bait does not include water, salt, salt-based materials produced and manufactured for the livestock industry, or nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations. Decoys, cover scents that do not contain cervid urine, and chemical attractants are not considered bait. Simply feeding hay during the winter months is not prohibited by this rule, but must be done in compliance with local and county ordinances, as applicable. In addition, food plots planted within accepted local or regional agricultural guidelines are not considered bait.

**3) Prohibited activities:** The proposed restrictions on baiting would prohibit the use of edible or ingestible substances, such as placing corn or wildlife feed in the field to attract and take game. Baiting can create unusually high concentrations of wildlife where disease can spread easily.

**4) Lawful activities:** The proposed restrictions on baiting would not apply to practices that provide essential necessities for livestock, such as water or salt licks and supplements developed for livestock operations. Greater availability of natural resources, including water and salt, actually promotes broader distribution of wildlife and healthier populations.

**5) Baiting and Supplemental Feeding:** Baiting of wildlife by the public is usually done for the express purpose of luring or attracting wildlife for hunting or recreational wildlife-watching. Although baiting and artificial feeding of wildlife may be well-intentioned activities, the ultimate results of such activities have proven detrimental to the long-term health of wildlife populations, the integrity of wildlife habitat, to agricultural resources, to property, and to human health and safety.

**6) Agricultural Products, Salt, and Water:** Nutritional supplements, salt, or salt-based materials produced and manufactured for the livestock industry and water are already widespread and are unlikely to result in the same wildlife health risks as other bait. Consequently, the Commission does not believe it is necessary to regulate their use as bait for hunting. In addition, research conducted on water developments in Southwestern Arizona did not find significant evidence of toxins or water borne pathogens.

**7) Hunter Opportunity:** The recent increase in the use of baiting has resulted in disproportionately high harvest rates among those using this method. Consequently, the Commission is offering fewer hunting opportunities, which negatively impacts hunter recruitment and retention.

**8) Hunter Success:** The issue with baiting is not simply increased hunter success rates, but rather the unhealthy concentration of wildlife that can be caused by baiting. While baiting has coincided with increased harvest success for some species, like white-tailed deer in some management units, harvest itself is managed through existing regulations, such as limiting hunting participation through permitting the number of hunters, shortening seasons, or establishing harvest objectives through the proposed amendment to R12-4-308. Wildlife health risks may only be reduced by amending R12-4-303 and R12-4-305.

**9) Commission’s Rationale for Prohibiting Edible and Ingestible Substances:** The primary concern with baiting is that it results in concentrations of wildlife that may facilitate the transmission of diseases among wildlife or contain toxic contaminants. Baiting and supplemental feeding are linked to spread and persistence of bovine tuberculosis and brucellosis in wildlife and may facilitate the spread of chronic wasting disease.(CWD) Further, toxins such as aflatoxin may be contained in wildlife feed or may develop after placement in the field. Research demonstrates that baiting concentrates wildlife at abnormal densities; increases direct and indirect contact among wildlife species; increases likelihood of disease transmission; maintains endemic disease pools that are capable of causing widespread sickness

and mortality of wildlife and domestic animals; causes significant habitat damage; and increases intra- and inter-specific competition and stress among and within wildlife populations. Paradoxically, while baiting practices are usually intended for the purpose of attracting or luring a specific species of wildlife, these practices may have significant detrimental effects to non-target species attracted to the bait or feed. Common examples of disease problems associated with baiting to both target and non-target wildlife include histomoniasis and avian pox in wild turkey, bobwhite quail, and other birds, bovine tuberculosis and CWD in wild and confined ungulates such as deer and elk, pseudorabies and swine brucellosis in feral hogs, and rabies and distemper in raccoons, fox, and coyotes. There are numerous other diseases and parasites that can be readily transmitted at baiting sites through direct or indirect contact between animals and the bait or feed.

**10) Economic Impacts:** The economic costs associated with wildlife disease outbreaks and control can be severe. Costs of disease outbreaks are generally recurring and additive due to annual costs of monitoring and eradicating diseased animals; and can cause a significant decrease in hunting license revenue due to increased hunter/public caution and decreased hunter participation. Such loss of hunting-related revenue to rural economies can be disastrous to the state's economic stability and may decrease operating budgets of state agencies, thus further causing negative impact on wildlife resources. Baiting and feeding of wildlife species detracts attention, resources, and effort away from wildlife habitat management, which biologists consistently recognize as the foundation of wildlife conservation. If wildlife diseases are introduced into Arizona and spread to native wildlife, hunters in the state would be adversely affected because the Department would have to use money that otherwise would have been directed to wildlife management, habitat enhancement, and hunter issues. Further, hotels, restaurants, gas stations, sporting goods stores, and other businesses that draw economic benefit from hunting would also be adversely impacted. The U.S. Department of Agriculture disperses \$17 million to \$19 million annually to help states look for CWD. A recent detection of CWD in Wisconsin has cost the state wildlife agency approximately \$250,000 in the first month and the costs continue to rise, with the state estimating that it will need \$22.5 million over the next three years to fight the disease. In Colorado, management of the disease required an additional appropriation from the state Legislature of approximately \$350,000. A National Plan for management of CWD has been developed to aid state, federal, and tribal organizations in responding to issues related to this disease. Full implementation of the plan exceeds \$100 million, and this amount does not reflect loss of revenue from decreased hunter interest in harvesting wildlife. Simply put, disease management is an exceptionally expensive proposition for the State, and measures must be taken to reduce the likelihood of its introduction into Arizona.

**11) Disease Transmission:** Transmission of bovine tuberculosis, brucellosis, CWD, and other wildlife diseases is facilitated through unnatural concentrations of wildlife created by placing bait. While these diseases are not evident in Arizona today, CWD has been detected in Utah, Colorado, and New Mexico, and if it continues its westward trend, it could eventually be detected in Arizona. Because many of these diseases may pose an economic risk to Arizona, this regulation is deemed critical to managing wildlife and hunting in Arizona. This is consistent with regulations in many other states and tribal lands. The proposed baiting restrictions will build on the Commission's history of taking proactive measures to prevent, detect, and reduce the likelihood of the transmission of wildlife disease, that already include: monitoring and testing cervid harvest annually since 1998; prohibiting the transportation, importation, and translocation of cervids; and establishing an emergency response plan of action, in the event CWD or other detrimental wildlife disease is detected. In addition to these controls already in place, the Commission is also recommending other amendments to Article 3 to proactively address CWD concerns by: regulating the importation of carcasses and parts of cervids into the state; regulating game farms in Arizona on the importation of carcasses and parts of cervids; and prohibiting the use of lures and scents containing cervid urine.

**12) Public Perception and Ethics:** Research conducted by the Responsive Management Program (Responsive Management/National Shooting Sports Foundation in 2008 (The Future of Hunting and the Shooting Sports: Research-Based Recruitment and Retention Strategies) indicates a majority of hunters oppose the legalization of baiting, and the opinion of baiting among the general public is overwhelmingly negative, primarily because they do not feel that it reflects fair chase acceptability. Therefore, it is likely that allowing the practice of baiting will result in a reduction of public support for hunting. It is important to know that the Commission is not addressing baiting from an ethical point of view, but from a wildlife management standpoint. Ethics and morals are a personal choice, and not something typically addressed by a governmental agency. Even so, many statutes, laws, and rules prohibit what most people view as unethical behavior; for example, hunting or shooting wildlife from a vehicle or airplane are prohibited for public safety, and because they are very effective methods for the taking of wildlife. People view these methods as unethical because wildlife does not react to a vehicle in the same manner as it would a hunter walking in the field, nor can it easily escape from an airplane. A few more examples of unlawful activities that are viewed as unethical are spotlighting, "canned" hunts, and computer-assisted remote hunting.

**13) Disease Studies Conducted in Other States:** The diseases the Commission is most concerned with include brucellosis, tuberculosis, and CWD, but other diseases are transmitted at concentration sites as well. It is difficult to study disease transmission within Arizona when they are not yet in Arizona, and the Commission is trying to reduce the likelihood of the spread of these diseases into our state. Much of the disease transmission research in the United States has been conducted in Wyoming and Colorado. In addition, Texas looked at feed quality in stores, and Nevada has documented specific mortality issues in both livestock and wildlife. The best science available is often peer-reviewed research from other locations, which has, for centuries, relied on proven scientific methods to conduct research with broad applicability to similar situations and species. The Southeastern Wildlife Disease Cooperative

continues to be a great resource and a reliable source of information on wildlife diseases as this organization not only conducts research nationwide, but is also a clearing house for a lot of wildlife disease information.

**14) Other States That Restrict or Prohibit Baiting:** Currently, all but five states located within the United States either prohibit or restrict baiting: Arizona, Kansas, Oregon, Utah, and Washington.

**15) Chronic Wasting Disease:** CWD was first recognized by biologists in the 1960's as a disease syndrome of captive deer held in wildlife research facilities in Ft. Collins, Colorado, but was not recognized as a transmissible spongiform encephalopathy until the late 1970s. This disease was subsequently recognized in captive deer, and later in captive elk, from wildlife research facilities near Ft. Collins, Kremmling, and Meeker, Colorado, and Wheatland, Wyoming, as well as in at least two zoological collections. More recently, CWD has been diagnosed in privately-owned elk and closely-related red deer residing on game ranches in several Western states and provinces. Much of the information on this disease comes from the endemic area of northeastern Colorado and southeastern Wyoming where it appears that, on average, CWD probably infects about 5-15% of the deer. Modeling of the impact of this disease indicates that this rate of infection is sufficient to suppress deer population levels in this area. At this time, the detection of CWD in new areas is expanding rapidly as there have been detections in free-ranging deer in additional areas of Nebraska, Alberta, Wisconsin, New Mexico, Pennsylvania, South Dakota, and Texas. CWD is virtually impossible to eradicate once it enters into a jurisdiction. This conclusion is based on the fact that there is no live animal test for the disease, so an agency cannot implement testing and elimination of only infected animals. Second, there is a long incubation period associated with the disease. Some of the research that has been completed suggests that the incubation period may be up to 36 months, and perhaps even longer. Another problem is that epidemiological links from one positive herd to 38 other infected captive elk herds in Saskatchewan and the shipment of exposed elk from one infected captive elk operation in Colorado to facilities in 19 states indicate the potential for the spread of CWD via the captive cervid industry. This means that from a few herds, the disease has the potential to spread to many states. Finally, a significant issue with this disease is that one of the measures considered to control its spread is extreme reduction of animal density. This entails removal of a large number of deer that otherwise could be harvested by hunters, which in turn equates to a potential economic loss not only to the Department but also to local businesses, such as restaurants and hotels that are supported by hunters. As an example, Wisconsin is planning to remove up to 25,000 animals to aid in management of this disease. Hunters could otherwise harvest these animals. The projected loss to the rural economy is estimated at several million dollars. In summary, there is still a lot of information needed to better understand the disease. At this time, however, the most effective management approach has to be to take measures to ensure, to the greatest extent possible, that the disease does not enter into Arizona. If it does, there will be substantial financial impact to the Department, captive cervid breeders, and the rural economy that is supported, in part, by hunting. In considering the potential adverse impact to a multitude of businesses through loss of hunting related revenue, this approach is clearly a benefit to the state's economy. There is a question about the mechanism by which CWD is spread between animals; however, there is ample evidence that indicates that the spread is horizontal (from one animal to another of similar type) and there is thus a risk posed to the native deer and elk in Arizona if CWD is inadvertently introduced into the state. While there is no known connection between CWD and human disease, because of the similarity of this disease to "mad cow disease" there is natural concern from hunters who harvest native cervids. If CWD becomes established in Arizona, there would be a loss of interest in obtaining permits to harvest deer and elk. There would also be a significant loss to local (and mostly rural) economies, if fewer hunters travel to these regions of the state to harvest wildlife. In addition to the loss of revenue, the Department would be required to expend hundreds of thousands of dollars in increased surveillance and other management issues associated with this disease. This is not a budgeted item and would result in the loss of many of the existing programs the Department maintains. This rule is supported by the Arizona Department of Agriculture because of concerns that this disease may have the capability to "jump" species and infect domestic livestock. Based upon the currently available research on the disease, species jump is not likely, but one of the problems with the disease is dealing with public perception of a disease that is 100% fatal to animals that develop clinical signs. A short summary of facts supporting the prohibition of edible and ingestible substances is available on the Department's website at, [http://www.azgfd.gov/inside\\_azgfd/rules/rulemaking\\_baitingProhibit.shtml](http://www.azgfd.gov/inside_azgfd/rules/rulemaking_baitingProhibit.shtml)

R12-4-304 is amended to allow the use of pre-charged pneumatic weapons, subject to certain caliber restrictions, for the take of all big game except, buffalo, elk, and turkey to recognize technological advances in pneumatic weaponry, increase hunter opportunity, and it was requested by members of the public. The rule is amended to require an individual using dogs to pursue bear or mountain lion to immediately kill or release the bear or mountain lion after it has been treed, cornered, or held at bay to prevent "canned" and "will call" hunts. The rule is amended to provide only those devices and methods that have been authorized by Commission Order for the take of turkey to make the rule more concise. While the current rule authorizes a number of devices and methods to take turkey, historically, the Commission by Order has only permitted the take of turkey with bow and arrow, crossbow, and shotgun shooting shot; devices and methods supported by the National Wild Turkey Federation. The rule is also amended to prohibit the use of shotguns larger than 10-gauge for the take of migratory birds to ensure compliance with Migratory Bird Treaty Act shotgun gauge restrictions. In addition, the rule is amended to transfer the definition for "day-long" to R12-4-101 as it is more appropriate for the definition to be included in Article 1. General Provisions.

R12-4-305 is amended to clarify the purpose and use of both the Carcass/Transportation/Shipping Permit and the Transportation and Shipping Permit to clarify permit language and make the rule more concise. The rule is amended to replace the term "bobcat permit tag" with the term "bobcat seal" to incorporate amendments made to R12-4-307.

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The rule is amended to establish bobcat seal requirements to ensure accurate biological and harvest data are maintained to better monitor bobcat populations within Arizona. The rule is also amended to establish requirements for the importation of a cervid, taken in another state and for the removal of a cervid lawfully killed or slaughtered at a game farm to reduce the likelihood of the introduction of CWD from nonnative cervids. In addition, the rule is amended to prohibit the transport of live crayfish and allow the sale of crayfish carcasses to aid in the conservation of native aquatic species. Nonnative crayfish have a grave impact to the state's native aquatic wildlife population through competition, predation, or disease vector. Because they are a nonnative nuisance species and can be prepared for human consumption, the Commission intends to allow individuals to collect and transport and sell crayfish carcasses.

R12-4-306 is amended to require a buffalo hunter to provide a signed written acknowledgment that the hunter received, read, understands, and will comply with the requirements of this rule to ensure the hunter is aware of the Department's requirements, authorities, and penalty for failure to comply; and then indicate to hunters that failure to comply with the rule will result in the invalidation of the buffalo tag to promote compliance with Commission buffalo hunt requirements. These amendments are intended to provide additional direct oversight and control to make supplemental hunts more effective in achieving management objectives by prescribing the order of hunters who take buffalo and designating which animal may be taken during a supplemental hunt that targets population reduction efforts. Because of the importance of supplemental hunts, regional personnel need greater flexibility and control when assisting hunters in taking buffalo to maximize harvest. The rule is amended to clarify a buffalo hunt applies to the wildlife area "herd," not the wildlife area "boundary" to make the rule more concise and easier to understand. The rule is amended to clarify that a non-permit tag is required for the Raymond Wildlife Area herd to clarify the type of permit required for a supplemental hunt. The rule is amended to extend the Department's ability to designate which animal may be taken during a supplemental hunt and prescribe the order in which a hunter shall participate in a supplemental hunt. The rule is also amended to allow a Department employee to assist in the taking of a buffalo to prevent the herd from being further stressed and reduce wounding loss. In addition, the rule is amended to clarify that a successful buffalo hunter shall report the taking of a buffalo from either wildlife area in individual or by phone to reduce the regulatory burden.

R12-4-307 is amended to exclude individuals who use confinement traps from possessing devices designed or manufactured to restrain trapped animals so they can be removed from a trap and released when required under rule. The confinement trap in itself is a restraining device. The rule is amended to establish requirements for powered cable devices to address advances made in trapping technology and make the rule consistent with the Best Management Practices (BMP) for trapping as recommended by the Association of Fish and Wildlife Agencies (AFWA). The rule is amended to remove language referencing a commercially manufactured jawed trap that does not exceed 5 1/2 inches in diameter as these types of traps are no longer commercially available, causing the language to be obsolete. The rule is amended to allow the use of specific foot snares as today's foot snares are both humane and effective; this amendment also makes the rule consistent with BMP for trapping as recommended by AFWA. Advances in trapping technology relating to foothold snares require new regulations for their use or restriction. A foot snare uses a spring-loaded steel cable loop suspended around the tripping pan to trap an animal by the leg or foot. When the animal compresses the pan in the center and springs the trap, the cable loop closes around the animal's leg or foot to a preset diameter. The preset diameter of the loop keeps the snare from closing to a small diameter so it does not cut off an animal's circulation. Because these foothold snares are both humane and effective, the Commission supports their use. Additionally, confusion exists because this rule inconsistently uses the term "leghold" trap in relation to other rules that refer to "foothold" traps. The proper term is "foothold" trap and all references to "leghold" are changed to "foothold." The rule is amended to replace the term "bobcat permit tag" with the term "bobcat seal" to make the rule more concise. The rule is amended to clarify the time and manner in which a bobcat seal must be attached to a bobcat's pelt or unskinned carcass to ensure accurate harvest and biological data are maintained to better monitor bobcat populations within Arizona. The rule is amended to allow the Department to offer bobcat seals year round. Historically, the bobcat seals were issued with the year stamped on the seal; the seal no longer displays the year of issuance so the Department does not need to restrict when these seals may be sold. The rule is also amended to remove references to the waiving of the April 10 deadline for bobcat pelts sealed under this section as the previous recommendation makes this practice obsolete. In addition, the rule is amended to establish the Department's authority to deny a trapping license to any individual who failed to submit an annual report until the individual complies with reporting requirements to ensure accurate harvest data are maintained.

R12-4-308 is amended to remove the requirement that an individual who takes a deer, elk, antelope, or buffalo under a special big game permit to submit the skull or skullcap for inspection and photographing as the Department believes it is no longer necessary to capture this biological data. The rule is amended to establish bobcat seal requirements to ensure accurate harvest and biological data are maintained to better monitor bobcat populations within Arizona. The rule is also amended to allow the Department to establish harvest objectives for other species to improve flexibility for increasing hunter opportunities while regulating harvest and to allow an unlimited number of individuals to participate in a hunt. In addition, the rule is amended to allow the Department to conduct inspections of all lawfully taken wildlife to check all wildlife for which a harvest objective is established. Harvest objectives specify a designated number of animals to be taken during a hunt. This allows an unlimited number of individuals to participate in a hunt, and the hunt closes when the designated number of animals is taken. Currently, the Department must estimate the number of hunters and their predicted hunt success rate in order to determine how many individuals may participate in a hunt. If hunter success is higher or lower than anticipated, the designated number of animals to be taken is not achieved.

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R12-4-309 is amended to clarify that the rule does not apply to aquaculture facilities administered by the US Fish and Wildlife Service, commercial facilities operating under a valid license from the Department of Agriculture, and the use of supplements as part of conventional livestock operations to ensure that the rule does not negatively affect operations where the use of drugs on domestic animals or wildlife is regulated by another agency.

R12-4-310 is amended to remove the time-frame in which an instructor shall provide instruction on fish identification; the time spent on instruction should be left to the judgment of the instructor as more or less time may be required depending on the individuals receiving the instruction. In addition, the rule is amended to establish the Department's authority to deny future fishing permits to a permit holder who fails to submit the required report until the individual complies with reporting requirements to ensure accurate sport fishing data are maintained.

R12-4-311 is amended to clarify the meaning of "private waters" to ensure language is consistent with that outlined in statute. The rule is amended to clarify the taking of live terrestrial mollusks or crustaceans from private property to aid in the conservation of native aquatic species. The rule is amended to include any Saturday during National Fishing and Boating Week in response to changes by the Recreational Boating and Fishing Foundation (RBFF), which determines the dates for National Fishing and Boating Week. When National Fishing Week was first implemented, the event spanned a 7 day period. The event was changed to the National Fishing and Boating Week, and now spans a 10 day period, which includes two Saturdays. The rule amendment allows free fishing on any Saturday that occurs during this event. The rule is amended to clarify that free fishing opportunities do not apply to waters of the Colorado River and portions of Lake Powell to make the rule more concise and understandable. The rule is also amended to clarify sanctioned fishing program and authorized volunteer instructor requirements to ensure fishing education programs are conducted in the manner approved by the Department. In addition, the rule is amended to establish a hunting license exemption for individuals participating in an introductory hunting event organized, sponsored or sanctioned by the Department to increase hunter recruitment. The Commission recognizes hunting as a fundamental requirement of wildlife conservation in Arizona and introductory hunting events actively promote participation in a variety of hunting opportunities, including an appropriate mix of weapon types and season offerings.

R12-4-312 is amended to remove language requiring the Colorado River Special Use permit/stamp to be "affixed" to a fishing license as the new hard copy licenses make this requirement difficult to comply with.

R12-4-313 is amended to allow the use of bow and arrow or crossbow for the take of catfish, where designated by Commission Order, to allow the Commission to open seasons that are limited to specific locations and specific times for the take of catfish with bow and arrow or crossbow and this was requested by the public. In addition, the rule is amended to allow the use of pneumatic weapons for the take of bullfrogs to better address invasive aquatic species and to provide more opportunities for hunters and anglers. As nonnative amphibians, bullfrogs are a competitive species that threaten the state's native biological diversity, so much so that they are listed as restricted live wildlife. Both agency personnel and external members of the scientific community encourage the Commission to authorize additional methods of take for bullfrog to allow individuals preferring these methods to take advantage of more recreational opportunities for hunters and anglers.

R12-4-316 is amended to remove "red shiner" from the list of live bait minnows that can be lawfully possessed, transported, or imported by licensed anglers to address emerging concerns about the interactions between red shiner and native aquatic wildlife as it is beneficial to restrict the use of red shiner to minimize impacts on aquatic wildlife. In addition, the rule is amended to allow anglers to collect red shiner in the wild to possess and use them as bait only on the body of water where they are captured to aid in the conservation of native aquatic species. Scientific research has identified emerging concerns about the interactions between red shiner, which is currently a legal baitfish, and native aquatic wildlife. These concerns suggest it would be beneficial to restrict the use of red shiner to minimize impacts on aquatic wildlife.

R12-4-318 is amended to remove language referencing the possession of a personal protection handgun to comply with statutory amendments resulting Laws 2012, 2nd Regular Session, Ch. 225.

R12-4-322 is promulgated to allow individuals to pick up and possess naturally shed antlers, horns or other wildlife parts that are not fresh without a permit or Department inspection. In addition, the rule allows individuals to pick up and possess a fresh wildlife carcass or its parts if, upon finding the carcass or its parts, the individual voluntarily notifies the Department of the find, a Department officer is able to observe the carcass or its parts at the site where the animal was found, and the officer can determine the animal died of natural causes. The proposed rule does not authorize the pickup and possession of any threatened or endangered species carcass or its parts. This is proposed to provide the public with a method to pick up and possess wildlife carcasses and parts without having to purchase a tag. Outdoor activities provide a multitude of wildlife experiences, including the discovery of wildlife parts such as skulls, bones, or shed antlers and there is some confusion regarding when an individual may collect wildlife parts. Current rule does not adequately address the legality of picking up fresh wildlife parts. Recently, the Commission addressed the situation where an individual picked up the remains of deceased wildlife; according to current law, possession of wildlife parts is only allowable when there is some evidence of legality, such as a permit-tag or special license. There is no exception for an individual who, for example, would like to keep the antlers of a deer or elk that died from causes other than unlawful activity. The Commission recognizes the role that wildlife parts play in fostering interest and future participation in outdoor activities and would like to be more permissive by allowing this activity with the appropriate oversight that the new rule provides.

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R12-4-315, R12-4-317, R12-4-319, and R12-4-320 are only amended to ensure compliance with the Administrative Procedure Act, Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements and rewording of rule language to make rules clearer and more concise.

**7. A reference to any study relevant to the rule that the agency reviewed and proposes to either rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The following studies may be viewed at the Arizona Game and Fish Department, 5000 W. Carefree Hwy, Phoenix, AZ 85086:

*"Brucellosis in Greater Yellowstone Area: Disease Management at the Wildlife-Livestock Interface"* Brant A. Schumaker, Danelle E. Peck, Mandy E. Kauffman: Review of the current status of bovine brucellosis in the Greater Yellowstone Area; describes the suite of management activities currently being implemented; and discusses a few economic principles that can help society identify the optimal level of brucellosis control and achieve it at least cost.

*"Bovine Tuberculosis in Free-ranging White-tailed Deer from Michigan"* Stephen M. Schmitt, Scott D. Fitzgerald, Thomas M. Cooley, Colleen S. Bruning-Fann, Larry Sullivan, Dale Berry, Thomas Carlson, Richard B. Minnis, Janet B. Payeur, James Sikarskie: Review of occurrence of bovine tuberculosis in free-ranging cervids in North America where the disease is being maintained in the deer population without infected livestock involvement.

*"Disease and Winter Feeding of Elk and Bison: A Review and Recommendations Pertinent to the Jackson Bison and Elk Management Plan and Environmental Impact Statement"* Bruce L. Smith: Review exploring the relationships between winter feeding of elk and bison and certain existing and potential diseases of those populations; how winter feeding of elk and bison affects transmission, prevalence, and impacts of brucellosis and potentially chronic wasting disease (CWD) National Elk Refuge and Grand Teton National Park elk and bison.

*"Dynamics of Bovine Tuberculosis in Wild White-tailed Deer in Michigan"* Graham J. Hickling: Analysis of data on bovine tuberculosis infection of wild white-tailed deer in the Lower Peninsula of Michigan to quantify the geographic spread of tuberculosis in deer in Michigan; investigate key factors influencing the prevalence of disease in the core of the infected area; and interpret the results in light of overseas experience with wildlife tuberculosis, with a view to recommending how current management of the disease might be enhanced.

*"Evaluation of New Strategy for Control of Bovine Tuberculosis in Michigan White-tailed Deer: Progress Report - Year 1"* Stephen Schmitt, Daniel O'Brien, Brent Rudolph, Elaine Carlson, Dave Smith, Zachary Cooley, Graham Hickling, Graham Nugent, Peter Buchko: Summary of results of a one-year pilot trial of strategy to eliminate bovine tuberculosis in free-ranging deer through increased hunting pressure and to restrict supplemental feeding and baiting activities that encourage deer to congregate undertaken by Michigan Department of Natural Resources.

*"Movement Patterns and Behavior at Winter Feeding and Fall Baiting Stations in a Population of White-tailed Deer Infected with Bovine Tuberculosis in the Northeastern Lower Peninsula of Michigan"*: Mark Stephen Garner: Dissertation to analyze the effect winter feeding and baiting have on face to face (F2F) contact for white-tailed deer populations and make recommendations for managing the bovine tuberculosis outbreak for white-tailed deer in Michigan.

*"Detection of Sub-Clinical CWD Infection in Conventional Test-Negative Deer Long after Oral Exposure to Urine and Feces from CWD Positive Deer"*: Nicholas J. Haley, Candace K. Mathiason, Mark D. Zabel, Glenn C. Telling, and Edward A. Hoover: Abstract investigates whether conventional test-negative deer, previously exposed orally to urine and feces from CWD positive sources, may be harboring low level CWD infection not evident in the 19 month observation period.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. A summary of the economic, small business, and consumer impact:**

The Commission's intent in proposing these amendments is to address the taking and handling of wildlife, increase hunter opportunity, and encourage hunter recruitment and retention. These areas include the use of tags, lawful and unlawful methods of taking and possessing wildlife and wildlife parts, seasons, and wildlife check and reporting requirements. The majority of the rulemaking is intended to benefit the regulated community as well as the Department, by clarifying rule language to ease enforcement, creating consistency among existing Commission rules, providing greater opportunities for hunting and fishing, reducing the burden on the regulated community where possible and practical, allowing the Department additional oversight to handle advances in trapping technology, population management, and protecting the spirit of fair chase. The Commission has determined that the benefits of the rulemaking outweigh any costs.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

Throughout Article 3, the term "muzzle-loading" was replaced with "muzzleloading."

R12-4-301, under the definition of "muzzleloading handgun," removed the reference to single chamber.

R12-4-301, the term "sink box" was replaced with "sinkbox."

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R12-4-302, subsections (E)(2) and (E)(5) were reworded to clarify the Commission's intent.

R12-4-303, rule subsections were relabeled; the term "gun" was replaced with "shotgun;" the prohibition on any lure, attractant, or cover scent containing any cervid urine was moved from subsection (A)(1) to subsection (A)(2) making it unlawful to possess these items while in a hunt area, "laser sights" were added to subsection (A)(2), the pneumatic weapon caliber size was increased from .25 to .30.

R12-4-304, all references to pre-charged pneumatic weapon caliber size were decreased from .40 to .35 for big game; reference to pre-charged pneumatic weapon caliber size was increased from .22 to .25 for furbearing and predatory animals, as applicable; subsections (A)(2)(j) and (A)(8)(k) were revised to define "release" to clarify the Commission's intent.

R12-4-305(I) and (K), 'clean' was inserted in front of 'skulls.'

R12-4-306(B)(1) and (F) were revised to clarify that the hunter agrees to comply with the requirements.

R12-4-307, subsection (H)(2)(f) was revised to cite the correct subsections.

R12-4-308, subsections (A)(3)(c) and (A)(3)(d) were relabeled to (A)(3)(b)(i) and (A)(3) (b)(ii).

R12-4-309, subsection labels were corrected as follows, (D) through (H) were replaced with (C) and (G); and the Department's address was added.

R12-4-313, Section references were corrected; and the term "practice" was replaced with "use."

R12-4-318, subsections were revised to increase the pneumatic weapon caliber size from .22 to .25.

R12-4-322, subsection (C) was revised to clarify when the individual should notify the Department.

In addition, minor grammatical and style corrections were made at the request of the Governor's Regulatory Review Council staff.

**11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:**

*The agency received the following written comments providing a comment that does not relate to specific amendments contained within the proposed rulemaking. The first two written comments did not pose any actual questions, thus the agency relies on the justification provided in item 6 of the preamble as the response to general comments.*

**Written Comment: October 11, 2012.** The Arizona Game and Fish Department (AZGFD) was once the best in game management, but is falling further down the line every year. AZGFD has so many hunts now, by the time you get to the third whitetail hunt, the deer are spooked out of the zone. The mule deer have dwindled in number over the past eight years such that it is tough to kill one. Still, AZGFD adds muzzleloader hunts, then adds more youth hunts and doubles the number of hunters in the field for one hunt. Is AZGFD losing it or just desperate for money? Who else but the government and AZGFD want to dictate our lives and wellbeing? Why does not AZGFD get out and find the kid's and people who poach? Oh, I forgot – AZGFD has one or maybe two officers per unit.

**Written Comment: October 14, 2012.** AZGFD should make provisions for out-of-state ATV owner's to buy a permit (like New Mexico does). I would like to use a friends ATV for an upcoming elk hunt, but it is illegal without the permit mentioned above.

**Agency Response:** An agency can make rules only if the legislature or a court gives the agency the authority to do so. The Commission does not have the authority to issue permits for ATV's.

*The agency received the following written comment regarding amendments made to R12-4-301:*

**Written Comment: October 15, 2012.** I recommend the definitions of the muzzleloading handgun and rifle be revised as follows: (muzzleloader is one word) "Muzzleloading handgun" means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel and loaded through the muzzle or chamber mouths of the cylinder with black powder or synthetic black powder." Strike-out the words "single chamber" and "single projectile." This would permit the sportsman to use a muzzleloading revolver for hunting purposes. The new definition would be historically correct, more humane for the taking of wildlife, and consistent with the concept of handgun hunting in general. The classic example is the HAM hunt in which a muzzleloader is restricted to a single shot while other hunters in the field are permitted to use modern, repeating, cartridge revolvers and pistols. Historical muzzleloading revolvers are readily available and in more models than single-shots, thus increasing the participation rate. "Muzzleloading rifle" means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single or double barrel, loaded through the muzzle or muzzles with black powder or synthetic black powder and a single projectile." This would permit the sportsman to use a single or double barrel muzzleloading rifle. The new definition is historically correct, since double barrel muzzleloading rifles were widely used for hunting and are more humane for the taking of wildlife by offering the sportsman an immediate follow-up shot. Both antique and reproduction double barrel muzzleloading rifles are readily available.

**Agency Response:** The agency disagrees, while amending the definition of muzzleloading handguns and rifles as suggested in the comment would not affect persons participating in a handgun, archery, muzzleloader (HAM) season,

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it would provide a distinct advantage to persons who possess these types of muzzleloading weapons during a muzzle-loader only season. The final rulemaking is revised to present muzzleloading as one word.

The agency received the following written comment regarding amendments made to R12-4-302:

**Written Comment: October 17, 2012.** The rule is redundant and unnecessary. The proposed rule prohibits an individual from allowing another individual to possess their tag. It would appear there is no reasonable justification for this new rule, except to restrict hunting from the older generations and the young potential hunters. AZGFD is supported by hunters and fees derived from hunting. If AZGFD wants to restrict hunting in the junior or senior category, it would seem they are cutting off their future revenue stream. Specifically, if I am hunting with a junior hunter and want them to have a good experience, I would not want them to "lose" their tag. A parent or guardian would normally carry their tag so they would not lose it. This proposed law would make them subject to a criminal violation when we already have laws to prevent "hunting with someone else's tag." Another example is someone who is disabled or elderly, but still capable of hunting. If an individual could not cross a ravine or climb through a rugged a canyon to retrieve their carcass this rule would not allow a relative or friend to assist them in retrieving their kill, thus creating waste and a negative experience for all. I am at a loss as to why AZGFD feels it is necessary to create more restrictions to a positive experience and create more bureaucracy through its rulemaking process and turn a positive win/win opportunity into a potential law breaking and criminal activity.

**Agency Response:** The agency disagrees; the amendment is designed to address an existing loophole and prohibit an individual from allowing someone else, who is hunting, to possess their tag. As with many rules, officer discretion must be applied. As in the example described above, adult hunters often carry their child's tag while they are hunting together. While this is practice is technically a violation even under current rule, it does not necessarily violate the intent of the rule.

*The agency received the following written comment regarding amendments made to R12-4-303:*

*The agency received the following written comments stating their support of the proposed rule prohibiting edible and ingestible substances for the take of big game. Because the written comments did not pose any actual questions, the agency does not believe a response is required:*

**Written Comment: October 7, 2012.** I believe that as written an officer could cite someone for hunting over a natural salt or mineral lick. This would be an injustice in my view. I recommend that the wording be changed a bit to allow that activity. I have no problem with the provisions banning food stuffs and fully support that ban.

**Subsequent Comment: October 9, 2012.** Thanks for sending me the proposed rulemaking. I will help quell the rumors best I can. The proposed rule does not look bad to me. I was concerned about salt, but I see that is not included, so I am supportive.

**Written Comment: October 10, 2012.** I am an avid hunter and I am for the proposed changes. Baiting may, in fact, lead to a number of wildlife management issues, but at the end of the day, I have a hard time believing anyone considers it hunting. This practice totally changes the natural behavior of the animal. We hunt, it is an action verb.

**Written Comment: October 11, 2012.** I completely support a ban on placing any type of bait or feed to attract and kill animals. I have been an avid hunter for over 30 years and have seen the sport go from a fun and rewarding activity to an all-out contest to see who can kill the biggest animal using any method possible. The advances that hunters have experienced with equipment and knowledge in the last decade are incredible. We have guns and bows that shoot incredible distances, we have optics capable of spotting game from miles away, cameras that monitor and record the movements of animals, and all sorts of other devices that make the odds increasingly in the hunters favor. Getting an animal addicted to an unnatural food source seems over the top to me. I think we owe the game that we pursue a little more respect than that. There are other considerations that contribute to my feelings on this subject such as the possibility of spreading disease and the non-hunting public's perception of hunting over bait. I realize that this is a touchy subject to a lot of hunters out there, but do not make the mistake of believing that all hunters support using bait. I encourage the Commission to support a ban on any baiting to take game.

**Written Comment: October 11, 2012.** As an avid hunter, I am in favor of the proposed changes pertaining to baiting. Baiting is baiting, not hunting.

**Written Comment: October 14, 2012.** Baiting of any big game animal is not an ethical practice, especially in today's world where there are so many cameras filming such practices and then distributing it to the general public. This gives fair chase hunting a negative image to the public. It also facilitates the transmission of diseases among wildlife and placing substances in the wild that contain toxic contaminants and may also result in unnatural concentrations of wildlife. All hunting should be ethical and fair chase, then everyone is on equal standing.

**Written Comment: October 14, 2012.** I have been traveling to Arizona for 12 years to hunt Coues deer during the January archery season with traditional archery equipment and fair chase tactics. In addition to the thousands I have paid in license and tag fees, I have contributed many thousands of dollars to the Arizona economy in search of these wonderful and unique deer, but have become discouraged by baiting and waterhole alterations to aid so-called hunters to kill Coues deer. Without such regulations, the increase in harvest rates on this population will necessarily result in some other type of hunting restriction to ensure adequate carryover of bucks. For the reasons AZGFD has stated in the rulemaking proposals, as well as a hunter concerned about hunter ethics and behavior now and in the future, I

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wholeheartedly support the proposals as stated below. Please take action now to end these harmful and deplorable practices.

**Written Comment: October 16, 2012.** I agree with the baiting prohibition because baiting causes controversy between the baiter and the general public. When the general public hunter tries to hunt in the same area where the bait is located, they are made to feel unwelcome on Public and State Land. People that are capable of stalking and killing deer are put on bait stations by outfitters, causing the percentage of deer killed by unskilled hunters, both resident and nonresident, to increase. I am a land owner in unit 29, I have witnessed the controversy and over harvesting of white tail deer on bait stations. A good example is the cancellation of the December archery hunt in Unit 29, mostly due to hunting on bait stations by outfitters and their clients. If outfitters and hunters, had to stalk an animal to kill it rather than sitting on a bait station, only highly skilled hunters will be successful in the field and the number of archery deer killed in the field will go down.

**Written Comment: October 17, 2012.** I support of the proposed ban on the practice of baiting wildlife in Arizona. As a lifelong resident and hunter, with children of my own who are in the midst of learning the ropes as responsible outdoorsmen, I cannot stress how damaging this practice is to the hunting community, its reputation, and our future; not to mention the wildlife. Ethics matter; all ethical hunters should support this, as well as putting rules in place to remind the rest of the crowd that we live in Arizona, not Texas, it is a good move.

**Written Comment: October 17, 2012.** I am opposed to baiting deer in Arizona. I feel it is unethical to use nonnative material (i.e. corn) as an attractant to take deer. Hopefully, AZGFD will pass this rule, making it illegal to do so.

**Written Comment: October 18, 2012.** I congratulate AZGFD on its proposed rule change prohibiting the use of edible or ingestible baits for the taking of big game; I strongly support this rule change. Furthermore, I also support AZGFD's exception to this prohibition regarding water and salt. This represents a good compromise approach to allow the use of salt and/or water attractants for stand-type hunting without endangering wildlife health or altering natural wildlife foraging behaviors. Baiting is not what Arizona big game hunting is about.

**Written Comment: October 18, 2012.** I would like to express my support for the elimination of baiting for the purpose of hunting ungulates. This practice is unnecessary and potentially harmful to the targeted animals. Scientific research has proven wild ungulates have a high potential for the spread of contagious disease when congregated over an unnatural feed source. In addition, amongst the non-hunting community, baiting is an indefensible practice that will only pit the state against the anti-hunting groups and use valuable resources (monies) trying to defend this practice. Please change the rules and eliminate baiting of wild ungulates.

**Written Comment: October 18, 2012.** I am writing to urge AZGFD to promptly pass the proposed Article 3 rulemaking. Certainly, my desire to see an immediate end to baiting deer and other wildlife in Arizona, specifically at waterholes, is self-serving insofar as I am a traditional bowhunter who has gotten into the cherished habit of driving down there every winter to camp and hunt south of Tucson for Coues deer and occasionally javelina. But, it is also greatly to Arizona's benefit to outlaw baiting and I offer myself as a typical example: I stay at least 10 days, but have stayed as long as 6 weeks. Other friends park their travel trailers in commercial trailer parks and stay all winter to hunt deer and quail and to fish. That's a lot of money transferred from nonresident pockets to AZGFD and the local economies of small towns such as Patagonia and Sonoita. The pinch is that the only way a fair-chase bowhunter has any chance whatsoever of bagging a Coues buck is to ambush water and public lands waters are extremely scarce. Each year, more of these waters are being taken over by baiters. It seems popular for "outfitters" to do the baiting each week for paying weekend "hunters." When someone hangs tree stands and dumps bales of alfalfa and other deer and pig attractants at a water site, I and all the friends I know who share this annual passion have no choice but to abandon that water to the baiters. If we were to kill a deer there, then we too would be stained with the guilt of baiting, which is not recognized by the Boone and Crockett Club or any legitimate ethical hunter's organization as fair chase. Certainly there are other good reasons to stop the baiting, but the concerns of fair chase hunters and the perception of Arizona to the rest of the world should be near the top of the list. Unless this practice is outlawed, I and my friends will be left with no choice but to discontinue our annual Arizona visits, costing us some valued time in beautiful surroundings and costing Arizona a cumulative fortune in lost nonresident revenues. Too, there is the shame of allowing baiting to continue, just to mollify greedy outfitters, legal and otherwise, and unethical shooters. Baiting is not hunting, and as an outdoor writer I have no choice but to share these problems with the rest of the sporting world. If this rule takes effect on January 1, 2013, I'll be back again this year and will publicly applaud AZGFD's actions. If not, I fear that my love affair with Arizona is over.

**Written Comment: October 19, 2012.** I think this is a great idea and should have been done years ago. Maybe the deer might have a chance to survive. Please do not give into the archery hunters, they already have close to three months to hunt deer and can then participate in a rifle hunt as well. Do not let <name redacted> Outfitters in <city redacted> push AZGFD around; they openly admit to deer baiting and profit off of Arizona's wildlife. Be aware, they will not follow the rule if it does pass.

**Written Comment: October 21, 2012.** Please ban baiting. This practice has gotten out of hand. It is not fair to the animal; they become accustomed to it. Then there are the guys who go out and make their own water catchments. They haul hydraulic cement out to a place and build it. It is not hunting. AZGFD employees are the experts. AZGFD needs to do this for the animals. AZGFD should figure it out and do what is best, but that's my opinion.

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**Written Comment: October 22, 2012.** As an Arizona native who has hunted and fished in this state since I was old enough to fit in my Dad's backpack (some 47 years), I wish to share my thoughts about the proposed rule changes regarding baiting of deer, elk, etc. I am not in favor of this method of taking big game animals and I offer the following three reasons: First, as an avid bowhunter, the term "fair chase" means more to me than just obeying the local game laws. In the last few years, I have witnessed more and more "setups" in the outdoors where guides and outfitters have been basically feeding the deer and elk in certain areas in order to train the game to come to "their" area when "their" hunter is sitting in "the" spot. All of this occurs on public lands where first come, first served is the unwritten rule for obtaining a hunting spot. I am aware this method has been prominent in other states for some time on private property, especially in the taking of whitetail deer, but I do not see this as a good thing out here in the Southwest. Secondly, and in addition to the fair chase part of the equation, I see this as a threat to our deer and elk populations, which we all know is extremely volatile and at a lower than normal level, even as I type. We all know the hunter success rate goes up tremendously in the above "setup" described scenario. With the archery hunts for deer being largely an over-the-counter allotment, we will soon see significant drops in our herd numbers due to the increased harvesting. As a bowhunter, I have always relied on the fact that even if I did not get drawn for a permit hunt, I could still enjoy the outdoors with my over-the-counter deer tag. In my opinion, baiting could be a huge factor in this opportunity going away. Thirdly, I am not a wildlife biologist, but I do think the evidence of increased disease spread with these scenarios is scientifically supported. Having large quantities of wildlife feeding in the exact same spot on the exact same food would suggest to me a larger chance of one sick animal infecting the whole herd. I am in favor of prohibiting "baiting."

**Written Comment: October 24, 2012.** I fully support the proposed amendments to R12-4-303 that restrict the use of bait to take game. I consider the practice of "baiting" to be unsportsmanlike. It also goes against the high ethical standards of fair chase that we need to practice as Arizona sportsman. In addition to my personal ethical views, the "Facts Behind Proposed Baiting Prohibition" has enlightened me on the dangers of facilitating the transmission of diseases by concentrations of wildlife around food plots and other baiting substances. I encourage AZGFD to accept and incorporate these proposed changes to R12-4-303 to Arizona's Hunting Regulations.

**Written Comment: October 30, 2012.** I am writing to you today on behalf of the Arizona Bowhunter's Association. I am aware that AZGFD has received some complaints concerning bowhunters and baiting. The Arizona Bowhunter's Association addressed this issue a few times in the past; the Association has even gone as far as polling our membership on the pros and cons of baiting to bowhunters. We found that the vast majority of bowhunters do not bait and thought baiting should be outlawed for various reasons. However, many thought that hunting over salt was okay. The Arizona Bowhunter's Association board has voted on two separate occasions to support AZGFD's proposed ban on baiting. We understand there is vocal minority making a lot of noise on behalf of bowhunters and the reality is that most bowhunters do not bait and feel that it gives the bowhunter an unfair advantage over the wildlife.

**Written Comment: November 1, 2012.** In regards to the proposed changes relating the baiting of big game animals; as a holder of an Arizona lifetime license, I fully support the ban of this practice for both biological and ethical reasons.

**Written Comment: November 5, 2012.** As a lifelong resident and sportsman of Arizona, I would like to voice my support for R12-4-303(D), the baiting prohibition. I applaud AZGFD for taking this proactive step in wildlife management which best serves the interests of all stakeholders for this issue. Because Arizona statutes are silent regarding the legality or illegality of baiting for big game animals, I believe it showed great prudence and wisdom on behalf of AZGFD to look to nearby and neighboring states who are dealing with similar management issues regarding CWD, among other diseases, for big game species. While the citizens of this state and our neighbors can easily adhere to geographical boundaries and artificially created habitats, our wildlife does not recognize such boundaries and instead responds to ecological and habitat conditions for their range. Continuity of management practices between neighboring states is critical to ensure the minimization of disease spread across state borders. This proposed rule change does exactly that. The science behind the proposed rule change is compelling and the continuity of wildlife management with nearby and neighboring states is further sound management. Moreover, the proposed rule amendment indirectly supports a long overdue venture into the ethics of fair chase the sportsmen of Arizona so passionately subscribe to. I am troubled anytime I see guarantees of 100% chance at an archery shot for Coues Whitetail deer. These are some of the most elusive deer in the Southwest, the mere sighting of a Coues Whitetail deer is a treat, much less the opportunity to be within legitimate bow range of such an animal. While I am by no means a decorated big game hunter, I have taken a few elk with my bow and I have missed more shots on other species than I care to admit. Through all of my treasured moments in pursuit of Arizona's big game, one thing I have been unequivocally taught is that seeing my quarry, much less getting a shot within bow range of one, is never a guarantee. To imply such is to entirely circumvent the concept of fair chase that our North American model is predicated on. Finally, I would like to remind my fellow sportsmen brethren that hunting is a privilege granted by the State of Arizona to its citizens and non-citizens based on adherence to the rules adopted by the Commission. Much has been made about restricting the "rights" of hunters to pursue game, and adoption of this rule is but one step along the continuum further restricting our "rights" to take game as we, the sportsmen, see fit. The argument necessarily reverts to an illogical conclusion that the restriction of baiting will inevitably lead to the restriction of high-powered rifles or scopes in future years. Such conclusory arguments not only are lacking in merit, they are an embarrassment to the sportsmen and women of Arizona. My brothers, you have no rights other than those specifically provided by the Commission to pursue and take our precious game specimens. The mere omission of baiting as a legal form of take in the current regulations does not imply

that it is an inherent right for sportsmen to apply at their discretion. Indeed, we no more have the “right” to bait big game animals because of this omission than we do to drive in excess of 75 miles per hour in an otherwise unmarked speed limit zone. And, just as the privilege of driving can be revoked by those who abuse our state’s laws, so too can the privilege to hunt for those who abuse the rules of the Commission.

**Agency Response:** The Commission appreciates your support.

**The agency received the following written comments regarding amendments made to R12-4-303:**

**Written Comment: October 10, 2012.** I read the proposals for baiting or attracting game animals. I have lived and hunted in Arizona practically all my life; I will be 60 years old this coming January. I used to bait for bears when it was legal in Arizona. For someone who has never baited for bear before, it is an experience everyone should try at least once. This was very time consuming, expensive, and hard work. If you were successful in harvesting a bear, trust me, you earned it. When AZGFD prohibited bear baiting, I was furious. After a couple of years went by, I found other means of hunting bear and learned to live with it. My friends and acquaintances might not agree with what I am about to say, but I have my own reasons for my beliefs. As far as using attractants to lure game in for harvesting, I am for eliminating food sources for the stated reasons of diseases and viruses. People unintentionally feed game animals food that is not good for them. I understand the hazards that can develop from this. Salt is a natural mineral found in the ground; I cannot see the harm of salt (unless it is because AZGFD does not like to see game harvested). Also scents and cover scents are only covering your odor, not to attract game or cause internal digestive harm. If my vote counts for anything, I would rather AZGFD make food sources illegal for attracting game for harvesting or any other reason. I live by a park in Payson and I hate to see the public feed the Canadian Geese when they fly down for the winter. People in our neighborhood and town feed the elk and the javelina and all AZGFD can say is “you should not do that.” If AZGFD makes baiting wild game illegal, then AZGFD should prohibit, and enforce, all feeding of wild animals. Do not make this a one way street. If AZGFD’s concern is really for the animals then start writing citations to everyone (hunters and non-hunters).

**Agency Response:** The Commission appreciates your support. A.R.S. § 13-2927 prohibits the feeding of all wildlife in counties with populations of more than 280,000 persons, which means this statute applies only to Maricopa, Pima, and Pinal counties. All state and local law enforcement agencies may enforce state law; however, law enforcement agencies set their directives in an effort to better manage their own resources, as needed. CWD is a transmissible spongiform encephalopathy (TSE) of cervids. TSEs are caused by unusual infectious agents known as prions. CWD prions persist in the environment, and animals can become infected through exposure to a contaminated environment. Urine and feces from CWD-positive animals contain CWD prions. These have been shown to be infective to transgenic mice and in a feeding study using deer (Haley et al, 2009). The detection of prions in urine was published in 2009; and in the fall of 2009, several states were considering banning the use of scent baits produced from cervid urine. Since, research has been published that confirms the transmission of CWD to deer through oral administration of feces and urine from an infected animal, and to transgenic mice through nasal instillation of prions. Cervid urine-based scent lures are primarily manufactured from the urine of farmed or captive cervids; game farms are often a source of CWD that then spreads to other farms or to the wild. Based upon available scientific literature, the Commission determined that use of deer urine as bait poses a potential threat.

**Written Comment: October 10, 2012.** I have been an Arizona bowhunter all my life and I am a registered Arizona guide. I agree with making baiting illegal. With the advancements in our equipment, we have too many advantages already. Guides want to keep baiting legal to make hunting easier for their clients. I do not feel we have the quantity of wildlife as they do back East to justify baiting. Arizona is known for its spot and stalk opportunities. I feel we should make water hole hunting illegal as well, unless you are elderly or disabled. I know there would need to be certain criteria to make that happen, such as no blinds or tree stands within several hundred yards of a water hole or spring.

**Agency Response:** The Commission appreciates your support. At this time, there is no biological reason to prohibit hunting over water.

**Written Comment: November 5, 2012.** After reading the proposed rule change, I am in favor of prohibiting the use of edible or ingestible food based substances for the taking of big game, but would like to see the rule changed to include all wildlife. Placement of food attractants to lure or attract wildlife is an ever increasing issue, which has biological and ethical concerns for the health of wildlife populations. Transmission of disease, through concentration of various wildlife species is of highest concern, but an increase in depredation in and around these sites also becomes a heightened issue. Furthermore, placement of edible substances has the potential of introducing invasive species into native ecosystems, especially since many of the food based substances are either in the form of commercially purchased baits produced throughout the United States, or more commonly, edible substances purchased locally such as alfalfa or whole corn. These may contain non-native seeds that are undesirable and may spread at the expense of native plants. I would also like the Commission and Department to clarify the use of edible or ingestible substances placed to lure wildlife in situations found on private property through the plantings of crops or food plots. I am certain this rule is not intended to encompass these, but believe a statement excluding them would be appropriate, if applicable. The rule goes further to exclude: “a. Water, b. Salt or salt-based materials produced and manufactured for the livestock industry, or c. Nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations.” I am also in favor of this exclusion. Salt is not a food, rather a nutrient which is found naturally in food and in soils. Additionally, countless number of livestock salts have been

developed throughout Arizona. By including salt as prohibited, AZGFD would possibly be placing hunters at risk of interpretation by enforcement personnel. Questions that could arise that would place lawful hunters at risk and could be interpreted differently would be: hunting trails leading to a salt or supplement, identifying exactly who placed the salt, distance one can hunt from salt or supplement, hunting natural salts or lick stations, distance one can hunt from salt stations, wildlife being shot after leaving salt station, etc. Therefore, hopefully the Commission will limit this rule to the placement of edible or ingestible food based substances and exclude salt or salt-based materials and nutritional supplements. Going a step further from limiting the use of edible or ingestible substances during hunting seasons, I would hope that the Commission looks to ban the use of these substances throughout Arizona by all publics. Hunters utilizing these substances are concentrating wildlife for very short periods of time and their effectiveness depends on habitat quality and natural food availability which is greatly influenced by moisture amounts and timing. On the other hand, the portion of the public that entices wildlife onto their properties through feeding stations do so on a yearly basis. In my experience, these locations greatly enhance the yearlong possibility of disease transmission, depredation, diminished nutrition through the use of 'ice cream' foods that do not provide necessary nutrients, habituation of wildlife, and attraction of wildlife species that potentially increase public safety concerns (i.e. mountain lions, bears, javelina, and coyotes). Listening to discussions involving wildlife professionals, it appears that this rule change came about due to concern that the placement of baits is increasing the harvest of certain big game species, especially by archery hunters. I do have a concern, if this is the cause for this rule change, unless AZGFD has concrete data that shows archery harvest has increased specifically due to the placement of baits. Wildlife Management requires sound scientific facts, not the general belief by some. Harvest rates and hunter success should be dealt with by changes to hunting regulations (influenced by season dates, permit numbers, bag limits, etc). Some years ago a team was assembled that directed AZGFD to adjust archery harvest rates in specific units through a process of looking at success over a three-year period, whereby, units with success averaging above a specific rate would fall under specific management criteria. Rather than limiting how hunters become successful, AZGFD should focus on biological health of wildlife, which the rule change will accomplish. Technological advances in all hunting techniques are, and will continue, to drive up success rates, not just the issue of baiting. I do not believe the Commission, nor do I believe that is the intent, should make rules that limit methods of take depending on success rates such as hunting over water, use of tree stands, game cameras, high powered rifle scopes, or long range firearms. These methods definitely have the potential to increase harvest rates, but should be dealt with through hunt regulation changes, which will undoubtedly limit permit numbers and season length, thus reducing opportunity. In addition, the rule it states that any lure, attractant, or cover scent containing any cervid urine would be prohibited. I am unclear as to how the use of cervid urine would affect the health of big game species or wildlife in general. I understand that disease affected urine poured directly on the ground could potentially spread disease if in large enough quantity and over a period of time. But purchasing affected urines or used in very small amounts during hunting season has not been proven to be a factor in disease transmission. Many of the urine attractants are in the form of a wafer placed on the user or hung in trees to act as either a cover scent or wind driven attractant, or are placed on wicks that are removed after use. These do not have the potential to transmit disease and should not be included in the rule. If this potential rule change is directed at disease transmission, the Commission should identify specific disease studies that show that use of cervid urine lures or attractants by hunters have been the cause of disease transmission. If this research cannot be confirmed, then this change in the rule should be struck. Again, sound wildlife science should be what dictates rule changes, not a general belief. Also, if AZGFD is concerned about disease transmission due to cervid urine, then a state law to ban the feeding of wildlife in Arizona should be developed. Cervids urinating in stock tanks and yearlong, public feeding stations on private property have a much greater likelihood of disease transmission than does the general hunting public.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) "Edible and Ingestible Substances Include" 2) "Edible and Ingestible Substances Do Not Include," 5) "Baiting and Supplemental Feeding," 6) "Agricultural Products, Salt, and Water," 7) "Hunter Opportunity," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," and "Chronic Wasting Disease." The proposed rule will prohibit the use of baiting to take big game. While not a primary rationale, a ban on the use of bait would likely reduce the overall harvest for some species. Other means of regulating harvest include shortening seasons or reducing authorized permits, which would impact far more people than by restricting the use of bait while hunting. Surveys are conducted in each game management unit to determine, among other things, how many animals can be removed from the population. This number is allocated among the different weapon types in accordance with Commission direction. Final permit numbers, season dates, and overall season lengths are set based upon an anticipated success rate that will yield the desired number of animals to be harvested. If more animals are harvested than anticipated, there are a number of options available to the Commission to reduce the harvest the following year. While prohibiting the use of bait may impact hunter retention and recruitment for individuals who choose to only hunt over bait, a greater number of people will be impacted by not prohibiting the use of bait, through a decrease in permit numbers and shortening of season lengths. CWD is a transmissible spongiform encephalopathy (TSE) of cervids. TSEs are caused by unusual infectious agents known as prions. CWD prions persist in the environment, and animals can become infected through exposure to a contaminated environment. Urine and feces from CWD-positive animals contain CWD prions. These have been shown to be infective to transgenic mice and in a feeding study using deer (Haley et al, 2009). The detection of prions in urine was published in 2009; and in the fall of 2009, several states were considering banning the use of scent baits produced from cervid urine. Since, research has been published that confirms the transmission of CWD to deer through oral administration of feces and urine from an infected animal, and to transgenic mice through nasal instillation of prions. Cervid urine-based scent lures are primarily manufactured from the urine of farmed or captive

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cervids; game farms are often a source of CWD that then spreads to other farms or to the wild. Based upon available scientific literature, the Commission determined that use of deer urine as bait poses a potential threat.

*The agency received the following written comments stating their opposition to the Commission's proposal to prohibit the use of edible and ingestible substances for the take of big game. The written comments did not pose any actual questions. Since item #6 of the Preamble provides an explanation of the rules, including the agency's reasons for initiating the rulemaking, the agency relies on the justification provided in item 6 of the preamble as the response to general comments:*

**Written Comment: October 7, 2012.** I am not in favor of this rule passing. I hunt deer over salt and corn; I have every right to do so. Not only does this help my chances on harvesting animals, but purchasing salt and corn from local dealers also helps out the local economy.

**Written Comment: October 7, 2012.** I do not agree with this law; it should stay the way it is.

**Written Comment: October 8, 2012.** Keep baiting legal.

**Written Comment (Same person submitted comment twice): October 8, 2012.** Regarding the use of attractants, I oppose any rule change from the current plan.

**Written Comment: October 9, 2012.** I strongly oppose the following additions: The use of edible or ingestible substances to aid in taking big game is unlawful when: 1. An individual places edible or ingestible substances for the purpose of attracting or taking big game. 2. An individual knowingly takes big game with the aid of edible or ingestible substances placed for the purpose of attracting wildlife to a specific location. 3. This subsection does not limit Department employees or Department agents in the performance of their official duties. 4. For the purposes of this subsection, edible or ingestible substances does not include: a. Water, b. Salt or salt-based materials produced and manufactured for the livestock industry, or c. Nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations.

**Written Comment: October 9, 2012.** I am against the bait ban. This decision would take away my personal liberty in regards to hunting. It would create a precedent in taking away tools from the hunter. AZGFD has sighted concerns about the spread of disease among wildlife as a reason for this ban. I do not think this is based on science as no formal data has been published. If the worry is that hunter success is too high, this also is unfounded since we have no mandatory reporting requirement for deer. I think there are much better ways to address the issues at hand. Again, I do not support the ban. It limits personal choice. I do not hunt over bait. I do not place trail cameras over bait. That is not the problem. The problem is a violation of my freedom.

**Written Comment: October 9, 2012.** Please do not add any additional rules or restrictions to our guidelines. Spend more time catching poachers. In fact more trophy game would survive if Arizona had similar reward rules for turning in poachers; like Colorado. You cannot argue with results.

**Written Comment: October 9, 2012.** Ranchers and cowboys have been salting the land way before AZGFD and I were around. There are hundreds of natural salt locations throughout Arizona that do not need re salting. So is AZGFD saying we cannot hunt our favorite hunting location; one that we have hunted from generation to generation; memories with fathers, sons, grandfathers, and personally my daughters as well. This is our land.

**Written Comment: October 9, 2012.** I am an avid hunter and a fifth generation Arizona native. Not once in the history of this state has data been collected of any known transmittable disease being transferred from one game animal to the next caused from the use of an ingestible substance used for baiting. Bodily fluids are exchanged constantly from deer grooming each other; I have witnessed the cow elk do the same with her calf many times. Banning the use of baiting to stop the spread of disease is simply an excuse. I believe the real issue at hand is the success rate among archery hunters. If AZGFD succeeds in making bait unlawful for aiding in the taking of big game, it will discourage archery hunters from taking to the field, succeed in lowering the kill ratio, negatively impact the archery industry, and the revenue received from hunting licenses and tags.

**Written Comment: October 9, 2012.** I am opposed to this ban and believe that there are different ways to deal with increased archery success rates, if that is the reason for the ban. If success rates are getting too high, AZGFD could set bag limits for archery hunters, establish mandatory check-ins, and, when a certain quota is met, shut the unit down. If the proposed ban is due to CWD, then AZGFD needs to provide scientific data to support this claim. I believe a hunter who chooses to use bait is a hunter who is more inclined to 1. Take ethical shots. Baiting allows for closer shots and fewer wounded animals. 2. Harvest mature deer. Every hunter I have spoken to uses bait to get an opportunity to harvest a mature animal. They are more inclined to go home empty handed rather than to shoot a spike or immature animal. I feel a ban on baiting will equal less tags being sold, which results in less money for AZGFD.

**Written Comment: October 10, 2012.** I oppose any restriction on the "use of edible or ingestible substances to aid in taking big game." There is insufficient evidence that shows that this practice is harmful or detrimental to the management of wildlife here in Arizona. As a longtime resident and hunter, I oppose this new rule. Please consider all of the facts before ruling on this issue. I know hunters from many parts of the country and those areas where "baiting" is permitted do not suffer from the practice. Responsible game management should be our first concern.

**Written Comment: October 10, 2012.** There are many reasons I am against making it illegal to bait in Arizona. I will not go over all of them, but will mention a few. I have baited for eight years. Before that, I used other methods,

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such as spot and stalk, still hunting, blind hunting at waterholes, etc. I can say from experience, far less animals are lost due to poor shot placement when bait is used than by other hunting methods. When baiting, one can set up the shot so that it is within their effective shooting range and in the best position for the shot. If ethics are any consideration in the decision to change the rule, then AZGFD needs to reconsider. I guess that as many animals are killed by other methods of hunting as by baiting, except many of them run off and die due to poor shot placement, never to be counted as "harvest." I believe one of the reasons AZGFD is proposing to change the rule is due to the possibility of disease spread; Arizona does not have the number of animals that other states do, especially when talking about deer. I can say that when baiting deer, I usually do not have more than four or five deer hitting any given feeder and the deer aren't there at the same time. I do not think the deer are being put at higher risk of contracting a disease when talking these numbers. Also, when baiting for javelina or turkey, limited numbers of these animals come to the feeders, so it is not the feeders that are causing more animals to gather. The groups of javelina and turkey remain the same whether or not they come to the feeder. The javelina have always eaten in one little corner of the farm field and I have not seen any sign of disease or found any of them dead while hunting the area. If there is evidence that disease is spreading to animals in Arizona, then AZGFD should take a look at what can be done to prevent it; but, I do not know that AZGFD has identified any disease breakout or even single case of disease. I have a father who is elderly and cannot walk well anymore, but he still enjoys getting out, sitting in a blind over bait, and getting opportunities to harvest animals. At this time, this is the only way he can hunt. If baiting were banned, his hunting days are over, as for many other elderly people I know; a few who I have personally helped as a friend. My wife hunts with a bow and arrow and is extremely conscientious about wounding animals and may not want to hunt anymore if she cannot hunt over bait, where she feels her chances of getting a good shot are better. When I was a guide, I guided many people who had handicaps; many of them would not have been able to hunt had it not been for baiting. I believe these people will have to stop hunting, which would be a shame because they enjoy it as much as I do. There would also be a financial impact, not only on AZGFD, but in general (I will not go into the details, I am sure AZGFD can figure this one out). This is just one more thing hunters are losing the right to do (if it passes) when, at this point, there is no real reason to take this kind of measure. When studies are done that show a reason to be alarmed in Arizona, then I will support looking at different options, including changing baiting laws.

**Written Comment: October 11, 2012.** In the past four years, I have hunted as often as I have had the ability to draw a big game tag. I started hunting at the urging of my son. Now, I hunt with my son, daughter, and nephew. I received word that AZGFD is proposing to outlaw salt and other baiting items. I believe this is a bad proposal. The economic impact this will have on Arizona will be severe. As hunters, we buy salt and baiting items from the local grocery and sporting goods stores. By banning these items, the state, and local economy will lose revenue from sales tax. I do not hunt over bait sites. I use "bait" to see what animals are in a particular area. My children enjoy checking the trail cameras to see what is coming in, or if a particular animal is still frequenting a particular site, currently this is a fox my daughter has become fond of. I know that this proposal has come about due to CWD. I have seen more game congregate near water catchments, than any bait site. Game also congregate around salt blocks left out by ranchers. I have not seen any research that shows that bait sites are a primary risk to spread CWD. I would hope that AZGFD would take into consideration the economic impact this proposal will have on the entire state.

**Written Comment: October 12, 2012.** I am opposed to the new baiting rule. There is no scientific research to support the claims. I am concerned that AZGFD is trying to restrict hunting means even further.

**Written Comment: October 12, 2012.** I am against this change. I will be 78 soon and am having a hard time getting around. I hunted the hills, walking many miles in the past, but in the last six years have resorted to hunting over bait. This is due to a health condition and simply not being able to get around as well as I use to. I have enjoyed hunting all my life and would like to continue hunting, but may not be able to do so if this rule passes. I cannot afford to go too far from a vehicle and take a chance on having a heart attack, low blood sugar, or even a fall.

**Written Comment: October 14, 2012.** Let the current law stand. It is important for handicapped and older hunters.

**Written Comment: October 15, 2012.** I do not bait for big game, but I do for coyotes. This rule could arbitrarily have a negative impact on legal hunters. If someone has a legal tag to harvest an animal in the area they are hunting in, this rule change could just make it that much harder for hunters to be successful. With the Forest Service following the hunts with prescribed burns and the limited hunt windows, there is already an issue with a drop in the number of hunting days. Why do something that will make it worse? Try making rules that will make it easier and assist hunters.

**Written Comment: October 15, 2012.** I strongly disagree with this proposal. As educated and informed as AZGFD is, I find it disturbing that this ban is being considered. I think AZGFD strongly underestimates the education and foresight of the Arizona sportsman. I've hunted in Arizona for more than 20 years and I've seen great advancements in hunt structures and hunting opportunities; I've also seen ridiculous implementations. There are a few of us who spend enough time in the field that AZGFD asks us for our advice with hunt recommendations. Why not this? AZGFD must consider the unintended consequences of this measure. Hunting opportunities will be reduced, therefore, so will AZGFD's revenue. If this is based on scientific data, why is not all data considered? Even that which does not support the idea? Ultimately, this is a "quota" issue and its clear AZGFD feels that archers are too successful. Yet, AZGFD has no data to support this with the current volunteer reporting system. Do I bait? No, but I see where it increases hunter opportunity and retention; something AZGFD needs. Let's be transparent. Let's use logic as opposed

to assumptions. A ban on baiting is a far cry from addressing the issues that AZGFD and our wildlife will face in the future.

**Written Comment: October 15, 2012.** I am opposed to prohibiting the method of baiting for big game. It will take away opportunity for all hunters as a method of take. There is no data that supports this rule change. AZGFD has shown there are increased success rates for archers shooting deer only. This is not true for all big game. AZGFD could better manage these identified hunts with a draw process, shorter season, or antler size restriction with check stations. This would also justify AZGFD field positions. AZGFD has mandatory reporting for only some species and hunts. This prevents the collection of good data. Without this method of hunting, I will not hunt big game for as long as I am able to nor will my family and friends. Without sufficient data to take away this hunting opportunity, I cannot support this change and will spend my recreation dollars elsewhere.

**Written Comment: October 15, 2012.** I am in favor of keeping the law as it stands. I suspect that some of the proponents of the change are likely to be special interest groups, such as extreme animal rights groups that intend to eventually see hunting outlawed completely. If this is the case, it would be a travesty to see these extremists put a stranglehold on this great and worthy time-honored tradition.

**Written Comment: October 16, 2012.** I am against the ban of using bait for deer. I just cannot see the reason to make more laws without adequate research to back up the proposal.

**Written Comment: October 17, 2012.** Hunting over attractants has been a way of hunting forever. With the widespread herds, it gives a bowhunter a slightly better chance to harvest. There was a comment about concern with disease because it brings animals together. I do not think this is valid because deer and elk are herd animals to begin with and are typically never alone. I was also told archery hunters are too successful. I do not believe this and think AZGFD will find that archery enthusiasts are the hardest working and most hard core of the hunting industry. I think it helps our kill percentage go up compared to other hunting means. Pretty soon they will say we cannot hunt within 200 yards of a water source. If someone wants to use this as a tool, they should be able to use cover scents that contain cervid urine. I cannot believe that it is a problem. If you have spent any time in the woods, this works marginally at best. I believe it works in the hunters mind more than anywhere else. I believe this is just another tool being used by the anti-hunting industry to divide and frustrate the hunting community so that we will throw up our hands in disgust and walk away from the sport we love. I hope AZGFD will look at what has made Arizona one of the true destination hunting states in the U.S. and keep things status quo. I know I cannot wait till I draw an elk tag again and also plan on hunting mule deer real soon. I hope AZGFD keeps working for the guiding industry and the hunters of Arizona and all the U.S. and manages with sound game management policies with plenty of input from the people who spend the most time in the outdoors.

**Written Comment: October 17, 2012.** I am strongly against banning edible substances to attract game. There is not enough evidence to prove feeding game causes the spread of disease. I also strongly disagree that baiting causes higher than normal harvest ratios. These arguments have always been the excuse to try to ban the use of substances to attract game. Also "edible substances" is far too vague and will lead to not being able to use salts. I strongly advise AZGFD to do more research on this issue before making a decision. I see it very similar to the rules AZGFD recently had overturned by the state legislature. If it is passed, I believe Arizona hunting clubs will ask the legislature to pass laws restricting AZGFD from imposing such a rule. I strongly encourage AZGFD to not pass this new rule.

**Written Comment: October 18, 2012.** I have not read every word of "the plan" and most of what I have read sounds good, but it is my belief that prohibiting the use of attractants for big game is too much. I enjoy game cameras every bit as much as the hunt. The more restrictions and limitations we labor under, including but not limited to the National Forest Service's Travel Management Rule, the less fun the outdoors become.

**Written Comment: October 19, 2012.** I am in complete disagreement with the proposed changes to R12-4-303(D). The proposed changes will eliminate the ability to use any sort of mineral or attractant that a target animal could eat and or ingest; almost all archery hunting using mineral licks or nutrients will be outlawed except for the very few exceptions listed in the rule. This is unacceptable to me as a lifelong sportsman. For approximately 15 years, I have been an avid archery hunter and hope to harvest a Boone and Crockett caliber Coues buck with my bow someday. With the proposed changes, I doubt that will ever be possible. I find the lack of concern and seeming disregard for the archery hunter disheartening. Perhaps AZGFD should just outlaw that sport of archery hunting since that appears to be the ultimate goal. As an attorney, I find the exceptions laid out in R12-4-303(D)(4)(a-c) to be confusing for the average sportsman. On one hand, AZGFD is stating that salt licks "produced and manufactured for the livestock industry" are legal to use in the taking of wildlife, but other nutritional supplements can only be used in the taking of wildlife if they are placed during the course of livestock or agricultural operations. It seems that the landowner/lessee will once again have preferential treatment. Following these exceptions, it is legal to hunt over a salt block I purchased from a feed store. Yet, it is illegal to hunt over a salt block made for the hunting industry, even if its chemical makeup is entirely the same as the one manufactured and produced for the livestock industry. For lack of a better word, this is just silly. Please consider my opinions and do not adopt this change. It will not benefit our state's wildlife and in my view serves no legitimate purpose.

**Written Comment: October 19, 2012.** I am opposed to the changes to R12-4-303. I am sure I speak for everyone I know, but they will all send e-mails too.

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**Written Comment: October 19, 2012.** As a disabled veteran, I believe this rule smacks of the elitism of the rich, healthy, “holier than thou” hunter who has no problem walking miles to pursue game or spending weeks as well as thousands of dollars to do so. There is no problem with “unnatural concentrations of wildlife” in Arizona. There has not been a single case of CWD in Arizona. If there is, it will come from across the border of New Mexico or Utah, not from a salt lick a hunter put out because he can only afford to hunt for a couple of days instead of an entire season. Doesn't he deserve as much of an opportunity to take big game as someone who can afford to take the whole season off from work? This rule is being pushed by a few well-heeled individuals who cannot stand to see others have success or feel they must force their beliefs on others. There is no problem with harvest rates that cannot be addressed by managing tags, including over-the-counter archery deer tags, if necessary. We already pay the highest resident fees in the country for licenses and tags and now the elitists in AZGFD want to further restrict the chance for the regular “Joe” to take a big game animal. I can guarantee a class-action suit under ADA if this rule is passed. AZGFD is restricting disabled Americans from using a method of hunting that improves their chances to take a big game animal. AZGFD should stick with the traditional methods of managing game by managing tags and seasons, not how people choose or are forced to hunt due to infirmities or economic conditions.

**Written Comment: November 3, 2012.** I do not agree with the changes AZGFD plans to make to R12-4-303.

**Written Comment: November 3, 2012.** I do not agree with the changes to R12-4-303.

**Written Comment: Same comment submitted by three different persons once on November 4 and twice on November 5, 2012.** In regards to R12-4-303(D), I feel the proposed amendments will lead to negative effects and that it is unlawful to subject hunters (conservationists) to such radical changes without any data collection pertaining to Arizona (i.e., studies, surveys, etc.). I am a 21 year old native Arizonan and an avid hunter. I began my big game hunting career by partaking in AZGFD's youth hunt program at the age of 11. I now set to the field every archery deer season and partake in archery elk hunts when I am fortunate enough to successfully draw a tag. I have hunted using some of these methods for five consecutive years, not once harvesting one of these species in this manner; methods that would be banned if this proposed rule change is adopted. Although never being successful for these species using this method, I have been able to see numerous species while in the field, which has kept alive the hunting spirit within me. If not for using these methods, I would have lost interest in hunting long ago and would not be an avid hunter and conservationist today. Below is a composition of the reasons I believe the proposed rule changes should not be adopted: There is no data pertaining to Arizona that support the proposed changes. Current surveys do not include information regarding harvesting species over bait, therefore, there is no support to show that a ban on bait would be beneficial. There is no data to show that baiting is not overall beneficial. There is, in fact, reason to believe that baiting is beneficial: Wildlife benefit year round from baiting while a hunting season may only be weeks long; Multiple species are benefited from a single baiting location, while it is common that only one animal is taking from the baiting site; Mandatory reporting of harvested species is required only for specific species and by specific hunters (i.e., archery deer hunters). Exact number of harvested species is therefore unknown. Such a ban would limit opportunities for all hunters, including youth and handicapped, that would otherwise be unable to hunt using other methods due to physical limitations. The proposed ban would have a negative associated economic impact. Nearly all businesses that are geared to, or supply, hunting supplies sell products that would be banned if this proposed rule change is adopted. It is unknown how traumatic the effect of not being able to sell these goods would be on large and small, businesses. I believe it is a hunter's right to choose how to harvest their game, while being both lawful and ethical. Hunters are given many options in hunting such as: devices used (i.e., rifle, handgun, muzzleloader, archery etc.), 'spot and stalk' vs. tree stand or ground blind, pursuit with dogs, and to hunt on or near water, to name just a few. I see no reason, without any supporting data, that suggests baiting should be anything other than a choice hunters should have. The rulemaking preamble includes the following statement, “The rule is amended to prohibit the use of edible or ingestible substances to attract big game for the purposes of hunting to proactively address concerns that baiting may facilitate the transmission of diseases among wildlife and placing substances in the wild that contain toxic contaminants and may also result in unnatural concentrations of wildlife.” There is no published data to support that baiting aids in the spread of diseases in Arizona. It is shown here that it is only a possibility by saying “baiting may facilitate the transmission of diseases,” without data proving baiting increases the spread of diseases true, I do not support such radical changes. A second statement reads, “The recent increase in the use of baiting has resulted in disproportionately high harvest rates among those using this method of hunting. Consequently, the Commission is offering fewer hunting opportunities, which negatively impacts hunter recruitment and retention.” The first half of this statement is, again, made without any supporting facts or studies pertaining to baiting in Arizona and its effect on its wildlife. The second half of this statement I agree with, such proposed changes would limit hunting opportunities while simultaneously having negative impacts on hunters. In conclusion, I am against adopting the proposed rule changes pertaining to the baiting for the purpose of taking big game. I am against such changes for the reasons stated above, namely the lack of scientific studies pertaining to the issue and the unknown effects this change could impose.

**Written Comment: November 4, 2012.** As a 50 year old woman hunter who loves to bow hunt, but does not “get around” in the woods like I used to, I am against the ban on the use of bait. I enjoy my hours and days spent in the woods each year and the game I have seen, from birds and squirrels, to elk, deer, and javelina. I do not know that my personal success has changed much due to ingestible baits as I have shot at more deer on water sources than on bait, but when hunting over a bait source, I can be truly alone in the woods because my “bait” location is not on every gps or map known to man. Therefore my time is free of 4 wheelers and other hunters. I, as a woman, feel this “Bait Ban” is a personal attack on me and those like me, as well as our young people - the future of hunting. My son's first

archery harvests were over some form of bait or water and he was immediately “hooked” as a lifelong bowhunter. Today in his 20’s, he will on occasion sit with a bow in hand as he did as a child, but more often he is running the mountains seeking out and tagging some of the biggest animals I have ever seen. My husband and I raised a die hard hunter like you read about in magazines and books; and he was recruited as a child to bow hunting by methods AZGFD wishes to ban. My most memorable hunt with a bow was shared with my son; I sat in freezing weather conditions, thick brush, a touch of bait to stop a deer if one passed and I shot a small forked horn Coues deer as my son videotaped. For me, it is about the priceless time we as a family and friends spend our hunts together and share in each other’s successes. We don’t all harvest deer each year, but we do see deer and a variety of other game. I wish I could run the hills with my son and husband, but my body says, “no” and this method of hunting is “priceless” to me as a hunter. What I have found in the use of bait is that if a deer is passing close by he may pass just a touch closer or even stop walking and allow me an opportunity. I have not yet found that bait guarantees me anything more than a chance at a more ethical bow shot at a non-moving target. I have read about other concerns for baiting such as disease, but I have found no proof provided by anyone beyond conjecture that we have anything to be concerned about with the numbers of deer we see. I am also concerned about other items in the rule change involving water sources in which the wording could lead to other infringements of how I spend my time outdoors, whether hunting or simply spending a day in the woods as a family checking our trail cameras. As a sportswoman and a mother, I urge the Commission to expel these rule changes permanently and preserve our freedom of choice in the outdoors. If at some juncture there is scientific proof that baiting in Arizona is a danger to our wildlife, then we will be forced to make such changes, but in the meantime I know that these methods are priceless to hunter recruitment and hunter retention in the rugged state of Arizona, while herd management can be facilitated on a different level.

**Written Comment: November 5, 2012.** I think AZGFD is missing the boat on a way to increase revenue. Instead of banning baiting, why not reduce the window to say 30 or 60 days leading up to the hunt and require a baiting license per location. I would gladly pay \$100 a year to continue to bait one location for my daughter to hunt and I am sure guides and other hunters would do the same. I would also turn in anyone who I know was baiting without a license; to protect my right to do it legally. I hunt the Pinal Mountains and it is next to impossible to hunt with a youth hunter without bait. If the goal is to introduce youth hunters and increase revenue, my proposal would solve the problem. The proposed ban will reduce both hunter numbers and the economic impact to feed stores alone. The negative economic impact of prohibiting bait would be substantial. Think of a guide who can no longer send potential out-of-state clients trial camera photos because the deer are no longer coming to their bait. I have friends and family from Pennsylvania who visit Arizona; the license, hotel, food, and taxes they pay every year will go to another state where they will have better odds and I am just one family. Multiply that by 100 or 1000 and you have a very negative impact. That is a lot of Pitman/Robinson funds that can go away. This rule will not only have an impact on how we hunt next year, but I believe AZGFD will set in motion a huge downward spiral as folks go to other states and we lose potential new hunters who are too bored because they have not seen any game. Revenues will continue to decrease, this will lead to increased cost of licenses across the board to recoup lost revenue to AZGFD operational, which in turn will further reduce the number of license bought. Also the concerns mentioned about spreading disease are way off base. I have not seen or have not heard of any reports or studies on any diseases in Arizona being spread because of baiting; no CWD or blue tongue disease. Again, I have hunted and baited the Pinal Mountains as long as it has been legal and have never seen or heard of anyone taking a diseased animal. This is just a poor excuse to push through an unpopular decision. This is just another win for the anti-hunting community.

*The agency received the following written comments regarding amendments proposed for R12-4-303(D), asking for information regarding: prohibited and lawful activities; the rationale behind the Commission’s decision to allow the use of salt, or salt-based materials produced and manufactured for the livestock industry, and nutritional supplements produced and manufactured for the livestock industry; hunter opportunity and hunter success; the rationale behind the Commission’s decision to prohibit edible and ingestible substances; economic impacts; disease transmission; hunter ethics; and the rationale for relying on studies conducted in other states. Rather than provide the same information for each individual comment, the Commission chose to provide this information in item #6 of the rulemaking preamble. Because this information is now provided in other items in the rulemaking preamble, the agency does not repeat the information by addressing it in this item.*

**Written Comment: October 7, 2012.** There is absolutely no evidence that baiting spreads disease. We all heard the proponents of this ban stand up at the Commission meeting and tell us that disease is a concern to “sell” it. This is one of the reasons that no one trusts the government. We are always getting “sold” on something. Cannot AZGFD be honest and tell us that AZGFD believes bowhunters kill too many deer? Oh, but then AZGFD would be questioned on why there are 700 plus deer tags for rifle hunters in the same units that are supposedly being overrun by bowhunters. Cannot allow a bowhunter to take a few extra deer at 25 yards as opposed to the rifle hunter routinely using computers and high powered scopes and rifles to shoot deer at over 1,000 yards. I have worked as hard or harder and spent more time and money with my set up than the guy shooting deer at 1/2 mile. I pass up many deer while waiting for an older, more mature deer. I have spent countless hours preparing and sitting at my sites and have literally passed over at least 30 bucks waiting for that mature deer that I know is in the area. I have not filled my tag, despite an almost daily opportunity to do so. If bait spreads CWD and other diseases, why does AZGFD have so many water catchments in the desert? Deer are more likely to transmit saliva-borne diseases through a trough of water than grain spread on the ground. By and large, the deer that bowhunters target are deer that rifle hunters do not hunt. Thick cover, trees, brush choked creek bottoms, etc. are where hunters using bait or salt usually hunt. Most rifle hunters, who depend on glassing from a long distance, do not hunt these areas. Bowhunters are required to report deer harvest

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and rifle hunters are not. AZGFD relies on the honor system with rifle hunters. This has nothing to do with disease and everything to do with enforcing hunter ethics on the rest of us.

**Agency Response:** Please see the information provided in item #6 of the preamble under 6) Agricultural Products, Salt, and Water.

**Written Comment: October 7, 2012.** I am writing AZGFD in response to what I have read about AZGFD's plans on changing the rule of using edible or ingestible substances along with cover scent containing any cervid urine. Being a bow and firearms hunter, I am not sure what AZGFD is trying to accomplish with this rule. Being born and raised here, I have seen a lot of rule changes in my 45 years of hunting that have affected the hunting community, some I agree with and some I do not. Take for instance the National Forest Service (NFS) and AZGFD's game retrieval rules. None of these would have made any difference when I was younger, but now that I am older and have had many surgeries to my lower extremities, my mobility is limited. It seems AZGFD and NFS does not have my best interest in mind. I feel I am being phased out of the sport I love, the one that kept me out of trouble as a kid. The same applies to this new rule. The restrictions that are being applied are limiting the ones who have helped AZGFD become the premier Department it has become. So I have to ask, is this new rule really necessary or is it political driven? I personally would like AZGFD to reconsider this rule.

**Agency Response:** Please see the information provided in item #6 of the preamble under 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances" and 11) "Disease Transmission."

**Written Comment: October 7, 2012.** Consider this my official opposition to the proposed baiting ban. The claim being that baiting may increase density dependent mortality by means of congregation and disease. The densities of the game animals in question are by far too low to substantially be affected by density dependent factors. If it is truly AZGFD's goal to reduce density dependent mortality; then why is not water or agricultural applications being considered as a potential vector? Also, AZGFD would be establishing a rule that is utterly unenforceable. How does one determine intent of feed or salt on the rangeland? How would AZGFD enforce anything on private land? How does AZGFD get probable cause to investigate this? I sincerely doubt this is enforceable. The constant discrimination against archery hunters has long been supported by AZGFD. AZGFD feels that archery hunters are too successful. Maybe mismanagement by AZGFD has led to over successful harvest. The only data AZGFD collects is from archery hunters because AZGFD forced them into mandatory harvest reporting, meanwhile leaving the "general hunting" majority to hammer away as usual with no required reporting. The occasional flight over a unit, albeit fun for the warden counters, is not a stand-alone method to determine herd densities. AZGFD also receives a poor return on mail out surveys. I understand that this is supposed to be a "science based" process, but the science or lack thereof is seriously flawed.

**Agency Response:** Please see the information provided in item #6 of the preamble under 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 1) "Edible and Ingestible Substances Include" 6) "Agricultural Products, Salt, and Water," 8) "Hunter Success," and 11) "Disease Transmission." Part of the rulemaking process is to ensure that any new rule is enforceable. When the attractant (bait) is an edible substance, its value as an attractant is very short-lived once it is eaten or removed. The bait itself will have to be refreshed and replaced often, making enforcement easier. A thorough investigation will be conducted by the Department officer prior to making the decision to issue a baiting citation. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. The officer is part of the judicial process, but does not usurp the court's final authority. A major focus of the investigation will be to identify who placed the bait. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation.

**Written Comment: October 8, 2012.** I am against this proposed law. Even though I am not a "bait" hunter, this should not be taken away from the folks that choose to exercise this right. This will have a huge effect on folks with handicaps that do not allow them to "spot and stalk." This includes the service members who are returning from war. Why is this rule change being done without factual scientific data. What is official reason from AZGFD? What Arizona studies have been performed on our big game animals regarding the effect of baiting? List factual data and results collected by AZGFD. If CWD and other types of disease are of concern, what factual data has been performed in Arizona? I will not support this law or anyone who does support this law; now or in the future.

**Agency Response:** Please see the information provided in item #6 of the preamble under 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 11) "Disease Transmission," and 13) "Disease Studies Conducted in Other States."

**Written Comment: October 8, 2012.** Though I personally do not hunt over salt, I would be strongly disappointed to see a tool used by others in the field taken away. I foresee potential trouble with enforcement being that on public lands, in which cattle or other livestock are grazed often, salt or mineral blocks are placed by the ranchers. A hunter that is obeying all laws could unknowingly take an animal from a distance only to discover after the fact that the animal was on or coming to a salt sight. The same could be said for already established sites in which salt has been placed years prior. Whatever the argument, I see this as another tool being taken away from hunters. It does not appear that the decision to ban salt has been thought through or studied as it applies in Arizona, a state that still has no reported cases of either CWD or brucellosis. Banning salt will not prevent either disease from entering the state. Even if either was to be discovered in Arizona, banning salt would not keep animals from congregating. Due to the nature

of our environment and much of the state, animals will still congregate and potentially pass disease at any number of trick tanks or any other tank or waterer. It is my opinion that AZGFD resources and time should be focused elsewhere. The reasoning or rationale proved by AZGFD thus far does not appear to be thought through on a number of different levels. The fact that animals come from long and far and to congregate and drink from the exact same spot over and over is one of them. **Subsequent Comment: October 15, 2012.** Upon review of the Game and Fish proposal to ban the use of bait or salt for the taking of wildlife, AZGFD has cited a disproportionate number of animals harvested over bait as a reason being cited for the ban. I think it is imperative of AZGFD to release the studies and/or questionnaires used to make this determination. What factual basis has AZGFD used to come to this conclusion? Additionally, I am not aware that hunting opportunities have been reduced for others as a result of this unsubstantiated claim. If this is an attempt to increase hunter retention and recruitment, I truly believe that this will back fire. Most individuals that I know have never hunted over salt. They use it as a tool, early in the season, to see what animals occupy the area. Often times, a deer or elk will only hit the salt once, if ever. The odds of harvesting a mature animal are greatly reduced if you choose to sit over salt vs. hunt the area that you know the animal is in. In addition to the reduced number of archery tags and rifle tag sales that will occur, the ban will also have a far reaching economic impact on areas within the hunt units as a hunter will not buy gas as often to check camera's, they will not be there to purchase food, they will not use lodging in the area. This seems much more like AZGFD is making a unilateral decision without a factual basis rather than an informed decision. This is one more step in pushing current and potential hunters away from the sport. It also limits opportunity for elderly and disabled hunters. I suggest AZGFD actually obtain factual data and present that to the hunting public to substantiate AZGFD's claims before pushing through what appears to be AZGFD's own personal agenda.

**Agency Response:** Please see the information provided in item #6 of the preamble under "Commission's Rationale for Prohibiting Edible and Ingestible Substances," "Edible and Ingestible Substances Include," "Disease Transmission," "Hunter Success," "Economic Impacts," and "Disease Studies Conducted in Other States." #14, 19, 22

**Written Comment: October 8, 2012.** I have been notified that the baiting issue has come to light again and it is going to the Commission to become a rule. I have used bait, trace mineral and regular salt, only to see what is in an area and have set them to hunt between the months of July through January. One particular buck may only come in once a month, making the success rate for my spot 'zero', but I will be able to set a camera and see what bucks are there for a later hunt, like rifle. That is one reason why I do not hunt over a salt. I do understand other supplemental feed like corn, apples, etc. are not a natural source of feed in Arizona and believe those should not be allowed, but salt really? Now, as far as why AZGFD wants to ban bait, if it is because of disease (congregating of animals), I would really like for AZGFD to show me the facts in Arizona, where we have been having problems and if AZGFD is afraid of disease and congregating then why does AZGFD continue to have water projects installed? If this baiting issue is because of harvest rates, where are all the factual numbers to prove bowhunters are over harvesting? I know that when a bowhunter harvests a deer, the hunter is required to report the harvest. Where are the factual rifle numbers? Maybe the problem lies in the rifle tag holders and AZGFD issuing too many tags. I know if baiting is taken away altogether, what happens to the disabled veteran, the child, the elderly, and so on, who may not be able to hike miles on end, but could sit at a bait site and may be successful? I believe some items should be banned, but salt and water should be allowed to continue since they are natural in Arizona.

**Agency Response:** Please see the information provided in item #6 of the preamble under 9)"Commission's Rationale for Prohibiting Edible and Ingestible Substances," 1) "Edible and Ingestible Substances Include," 6)"Agricultural Products, Salt, and Water," 11) "Disease Transmission," 8)"Hunter Success," and 13) "Disease Studies Conducted in Other States." Salt dissolves into the ground and will still be an attractant to wildlife long after the visible salt is gone. The proposed rule does not restrict hunting over salt; this means that an individual who hunts a water, trail, or saddle where anyone has placed salt will still be able to hunt that area. The Department does not collect quantitative data on specific methods used while hunting. Archers have been required to report their harvest because of the perception that the data from the voluntary harvest surveys were insufficient to adequately represent actual or comparative harvests with other weapon types. Archers have the ability to purchase non-permit tags for most units without limit (i.e., they are available to any archer that desires to purchase one), whereas general or muzzleloader hunters must apply through the lottery draw to obtain a permit that is limited in number. Because of the difference in permits, the ability to conduct a post-hunt survey for archers is challenging, and return rates are routinely substantially lower (25–35% vs. 45–55%). A recent analysis of the hunter questionnaire program indicates that archery reporting is adequate for management decisions regarding allocation of hunting opportunity and managing harvest. Because voluntary reporting provides the necessary accuracy and precision in harvest estimation, and no other weapon type requires mandatory reporting, the Commission believes that archers should no longer be required to report their harvest, unless using the voluntary harvest report. The information you requested on general (rifle) harvests and tags sold may be found online in *Hunt Arizona* at <http://www.azgfd.gov/regs/HuntArizona2012.pdf> on pages 18 and 20, respectively; this report is updated annually.

**Written Comment: October 8, 2012.** I have heard of the proposed baiting law and am hoping AZGFD could provide some clarity. Under this law, would it be legal to put salt or salt based products out even if you have no intentions to hunt over it? What about products that are not intended for livestock, such as water softener pellets or granulated salt? What is the reason for this law? It seems as though AZGFD is bound and determined to make hunting harder, especially for bowhunters. I am against this law as I understand it, but will admit it is very confusing. I cannot understand why AZGFD gets excited when they find out something (such as a possible jaguar) from "sportsman's" cam-

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eras, yet they want to outlaw these types of things. The bottom line is AZGFD should do a better job of managing wildlife. There are far too many tags issued on the majority of the hunts and overcrowding is becoming more and more of an issue. I wish AZGFD would listen to the public before they push through these laws. Until AZGFD can provide a reason for this law I will be against it.

**Agency Response:** Please see the information provided in item #6 of the preamble under 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 1) "Edible and Ingestible Substances Include," 6) "Agricultural Products, Salt, and Water." The rule does not prohibit the placement of granulated table salt or water softener pellets for wildlife consumption. However, water-softening salts are not intended for animal feeding as the particle size is inappropriate for small animals and may contain additives that are not suitable for animal feeds.

**Written Comment: October 8, 2012.** This rule change has no sound science to support it. We do not have a disease problem in Arizona nor is CWD present in Arizona. Not to mention, if AZGFD is so worried about animals congregating to spread disease, AZGFD should be going after the livestock salt as well. If hunters do not use salt, the wildlife will still use livestock salts and tanks and cattle are also known for carrying disease. Also, we're in a recession and the loss of revenue to the state of Arizona would be huge. All the taxes from product sales lost, fuel used to maintain bait sites lost, food purchased for said trips lost, etc. I will also contact Governor Brewer on this matter. I have hunted over salt for the past several years and have failed to shoot a deer. It does not increase your success any more than spot and stalk. It only allows you to hunt deer in the terrain that cannot be hunted via spot and stalk. Please add my name to the list of people that do not support this change. I am sick of AZGFD's continual assault on our hunting freedoms and heritage.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) "Edible and Ingestible Substances Include," 6) "Agricultural Products, Salt, and Water," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 10) "Economic Impacts," 11) "Disease Transmission," and 13) "Disease Studies Conducted in Other States."

**Written Comment: October 8, 2012.** Will the baiting prohibition go into effect before fall of 2013? I do not think the rule should change. **Subsequent Comment: October 18, 2012.** I am in favor of keeping baiting legal; it should remain the way it is. It does not make sense to allow salt for agricultural purposes and expect one to refrain from putting out feed, when it can be argued that it met the same agricultural purpose as salt. I have not seen state or federal land that was free of cattle in a long time. So, until there are no more cattle on state and public land where one hunts deer; how can one argue salt or feed was not put out for cattle?

**Agency Response:** If approved by the Governor's Regulatory Review Council, the Commission anticipates the final rule will become effective July, 1 2013. Please see the information provided in item #6 of the preamble under 6) "Agricultural Products, Salt, and Water." Part of the rulemaking process is to ensure that any new rule is enforceable. When the attractant (bait) is an edible substance, its value as an attractant is very short-lived once it is eaten or removed. The bait itself will have to be refreshed and replaced often, making enforcement easier. A thorough investigation will be conducted by the Department officer prior to making the decision to issue a baiting citation. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. The officer is part of the judicial process, but does not usurp the court's final authority. A major focus of the investigation will be to identify who placed the bait. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation.

**Written Comment: Same comment submitted by three different persons – twice on October 9, 2012 and once on October 12, 2012.** I am writing this to express my concern and ask for clarification of the proposed changes not allowing salt and other substances to be put out for the purpose of attracting game animals. I have hunted in Arizona for many years and have never hunted over salt or any bait. I however do put salt out and place game cameras nearby to get an idea of how many and what quality of game may be in a particular area. I also enjoy being able to capture pictures of the fine animals Arizona has to offer. My question; if this ruling is based upon the threat of CWD due to animals congregating at the supplement and passing the disease, where are the details of the studies in Arizona that show this is a problem. According to the information AZGFD has published, we have no cases of CWD in Arizona. By this same token, how can AZGFD justify water catchments and other water sources that are built and maintained by various government agencies and volunteer groups that entice game animals to congregate in one area and share water, thereby possibly spreading CWD through the water. I hope that this is not a measure to limit the success of hunters and simply generate revenue for AZGFD. From the use of my cameras, I have noticed a large increase of Arizona's predator population and cannot help but think that we are losing many more game animals to predators than to CWD. I believe with the current trapping and predator harvesting laws, that any animals contracting CWD would surely be the first to fall to the abundant lion population that currently exists in Arizona. I would greatly appreciate any clarification of the proposed changes in the off chance that I do not understand them. Hunting in Arizona has been and should continue to be a huge part of our Arizona heritage. I have faith that AZGFD will make the right decision for not only the game AZGFD is charged with managing, but also understanding that the animals AZGFD manages belong to the citizens of Arizona. Please listen to the concerned sportsmen like myself and evaluate the true impact of this proposal, not only to the animals, but to all of the hunters that generate most, if not all, of the revenue that keeps AZGFD functioning on a daily basis.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) "Edible and Ingestible Substances Include," 2) "Edible and Ingestible Substances Do Not Include," 6) "Agricultural Products, Salt, and

Water,” 8) “Hunter Success,” 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances,” 10) “Economic Impacts,” 11) “Disease Transmission,” and 13) “Disease Studies Conducted in Other States.”

**Written Comment: October 11, 2012.** First of all, where is the data specific to our state? What about hunter recruitment, specifically for the young, elderly, and disabled hunters who would never have the opportunity to harvest an animal if not for baiting. The success rate cannot be that high; AZGFD has already cut the late whitetail tags to the low two digits in central Arizona. Nobody knows where AZGFD is coming from anymore and that's something AZGFD should be concerned about. Explain why, let us see the reason. **Subsequent Comment October 12, 2012.** I have sat over bait from sun up to sun down and typically seen only a handful of deer during that time frame with maybe 25% of these being bucks and an even lesser number being something I wanted to harvest. It is not an easy hunt by any means, certainly not worth banning baits over.

**Agency Response:** Please see the information provided in item #6 of the preamble under 8) “Hunter Success,” 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances,” 11) “Disease Transmission,” and 13) “Disease Studies Conducted in Other States.”

**Written Comment: October 11, 2012.** After reviewing the proposed rule, I am definitely not in favor of its implementation. I believe it will hurt hunter recruitment, hunter retention, and hunter opportunity. It will increase competition and conflict over the limited water tanks. I think AZGFD already has guidelines in place should the over-the-counter archery harvest exceed the overall harvest percentage allowance. I would rather see reduced seasons in areas affected by this or restrictions to more primitive weapons (i.e. longbow). Enforcement could also be tough as it would seem difficult to prove that a hunter placed a salt block or if it was done by a rancher. It appears that it would still be legal to hunt over salt placed by a rancher. I could submit several more comments in more detail if necessary; however, for the time being please place me in the no column for this particular rule.

**Agency Response:** Please see the information provided in item #6 of the preamble under 7) “Hunter Opportunity,” 8) “Hunter Success,” and 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances.” The proposed rule will prohibit the use of baiting to take big game. While not a primary rationale, a ban on the use of bait would likely reduce the overall harvest for some species. Other means of regulating harvest include shortening seasons or reducing authorized permits, which would impact far more people than by restricting the use of bait while hunting. Surveys are conducted in each game management unit to determine, among other things, how many animals can be removed from the population. This number is allocated among the different weapon types in accordance with Commission direction. Final permit numbers, season dates, and overall season lengths are set based upon an anticipated success rate that will yield the desired number of animals to be harvested. If more animals are harvested than anticipated, there are a number of options available to the Commission to reduce the harvest the following year. While prohibiting the use of bait may impact hunter retention and recruitment for individuals who choose to only hunt over bait, a greater number of people will be impacted by not prohibiting the use of bait, through a decrease in permit numbers and shortening of season lengths. Part of the rulemaking process is to ensure that any new rule is enforceable. When the attractant (bait) is an edible substance, its value as an attractant is very short-lived once it is eaten or removed. The bait itself will have to be refreshed and replaced often, making enforcement easier. A thorough investigation will be conducted by the Department officer prior to making the decision to issue a baiting citation. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. The officer is part of the judicial process, but does not usurp the court’s final authority. A major focus of the investigation will be to identify who placed the bait. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation.

**Written Comment: October 11, 2012.** I am a concerned hunter interested in getting more concrete information regarding the baiting proposal. Do we have hard data on why this proposal is being recommended? Without some concrete data, I feel this is a knee jerk reaction to pass a bill. I am opposed to changing our current laws regarding baiting until we have solid data.

**Agency Response:** Please see the information provided in item #6 of the preamble under 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances,” 10) “Economic Impacts,” and 11) “Disease Transmission.”

**Written Comment: Submitted by 3 individuals using a form letter on October 11, 17, November 1, 2012.** I have to disagree with AZGFD’s recommendation to remove salts, minerals and consumable types of products as a hunting method. Some of my concerns with this rule change are as follows: No factual scientific study has been performed on Arizona wildlife specifically, as to the effects of baiting with salts, minerals, and consumable type products. No studies have been completed on the effects of specific harvest methods; it is unknown how many big game animals are actually harvested over a mineral, salt, or consumable product. The only current reporting requirement is for archery harvest; no such questions ask how they were harvested. Why aren’t all species and hunt methods included in the mandatory reporting requirement? If disease transmission were truly a concern, then all minerals and salts would be excluded, including those placed by ranching interests on public lands. Diseases are the same, no matter if the public puts the attractant out or a rancher leasing public land places it. Minerals placed by hunters have to be a very small percentage of the overall amount of salt and minerals placed on public lands, when compared to ranching interests. With water being a limited resource in Arizona, hot weather creates water temperatures of upward of 100° or more during summer months in small water catchments. This seems like a much more likely breeding place for disease which could be transmitted to concentrations of game and non-game animals. This should be the first concern of AZGFD as disease hibernates within and is easily transferred under such situations. If the rationale behind removing

minerals, salts, and consumable products truly is to control the possibility of disease outbreak, then why is not AZGFD obtaining factual data to address this more than likely possibility before making such a harsh rule change? All national studies on disease control, which AZGFD refers to for their rationale to support this rule change, are conducted under very different circumstances than we have in Arizona. Virtually all of those states have significantly higher concentrations of deer, elk, and other species, up to 20 times higher per square mile, when compared to Arizona. Other states, including neighboring ones, have species that perform winter migrations due to harsh conditions. This creates concentrations of a large number of animals in small areas. This is not a condition within Arizona. It is unfair to compare apples to oranges. Has AZGFD considered the local economic impact that this rule change might affect? In conclusion, I would ask AZGFD to produce their scientific study data that was performed within Arizona as to the harmful effects on wildlife of using salts, minerals, and consumable products. How can such a rule change be performed without such studies being completed within Arizona? AZGFD uses such process and procedures on all other recommendations that they make. Why is this recommendation considered to be an allowable exception to those standard procedures? I am asking that the Commission require the Department to perform studies and supply such specific information before they consider making a rule change with such a potential for impact on an individual segment of hunters, namely bowhunters. I also believe that such a study could not be complete without the requirement of mandatory reporting of all species, no matter the hunting method, and including details with respect to the type of method used for all successful harvests.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) “Edible and Ingestible Substances Include” 2) “Edible and Ingestible Substances Do Not Include,” 3) “Prohibited Activities,” 4) “Lawful Activities,” 5) “Baiting and Supplemental Feeding,” 6) “Agricultural Products, Salt, and Water,” 7) “Hunter Opportunity,” 8) “Hunter Success,” 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances,” 10) “Economic Impacts,” 11) “Disease Transmission,” 12) “Public Perception and Ethics,” 13) “Disease Studies Conducted in Other States,” 14) “Other States That Restrict or Prohibit Baiting,” 15) “Chronic Wasting Disease.” Part of the rulemaking process is to ensure that any new rule is enforceable. When the attractant (bait) is an edible substance, its value as an attractant is very short-lived once it is eaten or removed. The bait itself will have to be refreshed and replaced often, making enforcement easier. A thorough investigation will be conducted by the Department officer prior to making the decision to issue a baiting citation. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. The officer is part of the judicial process, but does not usurp the court’s final authority. A major focus of the investigation will be to identify who placed the bait. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation. Archers have been required to report their harvest because of the perception that the data from the voluntary harvest surveys were insufficient to adequately represent actual or comparative harvests with other weapon types. Archers have the ability to purchase non-permit tags for most units without limit (i.e., they are available to any archer that desires to purchase one), whereas general or muzzleloader hunters must apply through the lottery draw to obtain a permit that is limited in number. Because of the difference in permits, the ability to conduct a post-hunt survey for archers is challenging, and return rates are routinely substantially lower (25–35% vs. 45–55%). A recent analysis of the hunter questionnaire program indicates that archery reporting is adequate for management decisions regarding allocation of hunting opportunity and managing harvest. Because voluntary reporting provides the necessary accuracy and precision in harvest estimation, and no other weapon type requires mandatory reporting, the Commission believes that archers should no longer be required to report their harvest, unless using the voluntary harvest report.

**Written Comment: October 11, 2012.** Feedback regarding the use of attractants or nutritional supplements is not favorable of this change in the game laws. It is my experience that the attractants used do not impact the harvest rates specifically in archery hunting. The difficulty in getting a harvest is supported by the specific harvest results published by AZGFD. If nutritional supplements were responsible for increased harvest success rates, then why have archery elk rates dropped in the past five years across most of the Mogollon Rim (with the exception of 4A) to 30% of past success rates? Nutrition supplements and grains such as sweet feed benefit all of the mammals in the ecosystem. Banning mineral supplements makes no sense in an environment that is nutritionally marginal due to the poor soil composition that makes up the majority of the arid regions of Arizona. It is apparent that a control issue is at hand and not sound game or environmental management. Please drop the nutritional supplement language from this amendment.

**Agency Response:** Please see the information provided in item #6 of the preamble under 5) “Baiting and Supplemental Feeding,” 6) “Agricultural Products, Salt, and Water,” 7) “Hunter Opportunity,” 8) “Hunter Success,” 9) and 11) “Disease Transmission.” Elk harvests remain at a high level with about 9,000 elk taken each year; this is expected to continue for the foreseeable future as wildlife managers and land managers continue to balance habitat quality and elk-livestock competition. This information may be found online in *Hunt Arizona* at <http://www.azgfd.gov/reggs/HuntArizona2012.pdf> on pages 58 through 81.

**Written Comment: October 14, 2012.** I strongly disagree with this proposal. I feel that it is not based on scientific data and thus has no place being forced upon us. If there are studies to support this that apply to Arizona, please make them available to the public. If it is simply a matter of hunter success, I would like to see that info too. There are other ways to control success rates without taking away reasonable methods of hunting. The over-the-counter tags can be managed like the bear hunts are now with area quotas. I feel this is a much more logical method.

Notices of Final Rulemaking

**Agency Response:** Please see the information provided in item #6 of the preamble under 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 10) "Economic Impacts," "Disease Transmission," and 11) "Disease Studies Conducted in Other States."

**Written Comment: October 14, 2012.** AZGFD should be taking comments from today's date when AZGFD advised the public. **Subsequent Comment: October 16, 2012.** I do not want to see any changes to the current laws pertaining to R12-4-303. I would like to ask for data pertaining to the fact that AZGFD feels that hunters utilizing the method of hunting has affected the deer numbers and the harvest rates. Please answer the few questions I have pertaining to this issue: Please provide scientific data gathered in Arizona showing the transmission of disease at water sources, bait sites, mineral sites, licking branches, scrapes, and natural food sources. Please provide the number of archery deer tags sold in the past 10 years; year by year. Please provide factual data pertaining to the number of deer harvested by the archers over the past 10 years; year by year. Please provide the number of rifle deer tags sold in the past 10 years; year by year. Please provide factual data pertaining to the number of deer harvested by firearm hunters over the past 10 years; year by year. Please provide factual data showing with what method archers have utilized to harvest their animal for the past 10 years; e.g. spot and stalk, water holes, salt based products, bait sites, scent products, tree stands, ground blinds, calling, etc. Please provide factual data gathered during deer surveys for the past 10 years. Please answer the questions: why deer survey numbers are down, but the rifle hunter success is still high? Why archers are the only hunters that have to report deer harvests? If all Arizona hunters were required to report their harvests, would AZGFD have better data to manage the game?

**Agency Response:** Under A.R.S. § 41-1023(B), the Commission is required to accept comments from the public for 30 days from the date on which the proposed rulemaking was published in the *Register*; the lawful comment period for this rulemaking was October 5 through November 5, 2012. Pursuant to the request for information on research conducted within Arizona on transmission of diseases at water sources or bait sites, the requester was provided electronic copies of two publications (Water Quality at Wildlife Water Sources in the Sonoran Desert, United States and Studies of Wildlife Water Developments in Southwestern Arizona: Wildlife Use, Water Quality, Wildlife Diseases, Wildlife Mortalities, and Influences on Native Pollinators). The information requested on general (rifle) and archery deer harvests and tags sold may be found online in *Hunt Arizona* at <http://www.azgfd.gov/regs/HuntArizona2012.pdf> on pages 18 and 20, respectively. Deer hunts have mandatory harvest inspection requirements in place for permit tag hunts; the Department relies on this information as not all surveys are returned. Archers have been required to report their harvest because of the perception that the data from the voluntary harvest surveys were insufficient to adequately represent actual or comparative harvests with other weapon types. Archers have the ability to purchase non-permit tags for most units without limit (i.e., they are available to any archer that desires to purchase one), whereas general or muzzleloader hunters must apply through the lottery draw to obtain a permit that is limited in number. Because of the difference in permits, the ability to conduct a post-hunt survey for archers is challenging, and return rates are routinely substantially lower (25–35% vs. 45–55%). A recent analysis of the hunter questionnaire program indicates that archery reporting is adequate for management decisions regarding allocation of hunting opportunity and managing harvest. Because voluntary reporting provides the necessary accuracy and precision in harvest estimation, and no other weapon type requires mandatory reporting, the Commission believes that archers should no longer be required to report their harvest, unless using the voluntary harvest report.

**Written Comment: October 14, 2012.** I am a lifelong resident of Arizona and an outdoorsman from before I can remember. I am writing to express my concern over the language and intention of the proposed changes to rule R12-4-303 restricting the use of bait as a whitetail deer attractant. I understand AZGFD's concern about the transmission of disease and appreciate its proactive efforts to limit the deleterious effects CWD could have on our wildlife populations. What I find in the language of the proposed rule change, however, has absolutely nothing to do with it. The language in the rule specifically uses the word "may," in concluding that bait sites exacerbate the spread of disease. This indicates that there is no scientific veracity to AZGFD's use of this justification to limit Arizona archery hunters. Indeed, in Arizona, water is the primary concentrator of game. In my experience, there are ample food sources for whitetail and bait piles do not "draw in" animals from far afield for the chance at an easy meal. Has AZGFD conducted any study that would indicate otherwise? The rule change at least comes clean about its real intention later in the paragraph: In addition, the Commission believes that R12-4-303 exists to prohibit devices and methods that either compromise the spirit of fair chase or adversely impact hunter success rates. The recent increase in the use of baiting has resulted in disproportionately high harvest rates among those using this method of hunting. Consequently, the Commission is offering fewer hunting opportunities, which negatively impacts hunter recruitment and retention. I find this, as in the "official" justification, is equally based on conjecture, rather than actual evidence. I have explored hundreds of acres in Unit 24A over the last several years (I spend nearly every weekend throughout the year in the whitetail woods) This year was the first time in all of my roadless miles that I happened upon a bait pile; I found only one. Can AZGFD provide any actual figures on the number of people using bait as a hunting method, or the number of whitetail actually being killed using this method? If so, why not publish them for sportsmen to see instead of just making a blanket claim about a "recent increase in the use of baiting" leading to "disproportionally high harvest rates"? If the beating down of the SFW's attempt to take tags and revenue from AZGFD was supposed to usher in a new "partnership" between the community and AZGFD, the reason behind the Sportsmen's Constituency Group, why not share such information with us? But, even if there was an increase in the number of hunters employing and being successful by using bait, how can AZGFD conclude from that such an outcome results in fewer hunting opportunities and negative impacts on recruitment and retention? That seems entirely backwards to me. We're only allowed one deer per year. Retention is driven by success in the field. Recruitment is driven by others' success in the field. If the

impact of bait equals more success for archers, the logical conclusion from that is that you'll retain more archery hunters; especially young archers who are not likely to spot and stalk a whitetail for whom, sitting on a bait pile and watching the various animals coming in may be reward enough. I work in an archery shop. We sell more youth bows than anything else. This is very troubling. I am also concerned with where AZGFD is headed with the language, as it could as easily be "claimed" that the increase in success rates in whitetail hunts is also impacted by the use of high powered binoculars, laser rangefinders, or rifles that accurately shoot up to and over 1,000 yards. At what point do those also get banned so AZGFD can keep retention and recruitment high? There are better ways to limit the take of archery hunters, as in how AZGFD limits the take of female bears. Until AZGFD actually has real evidence to support such a rule and shares it openly with the sportsmen community, I strongly oppose this rule change. Enacting it without evidence to support either the increase in take or the transmission of disease will no doubt lessen my confidence in AZGFD in the future.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) "Edible and Ingestible Substances Include," 2) "Edible and Ingestible Substances Do Not Include," 3) "Prohibited Activities," 4) "Lawful Activities," 5) "Baiting and Supplemental Feeding," 6) "Agricultural Products, Salt, and Water," 7) "Hunter Opportunity," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 10) "Economic Impacts," 11) "Disease Transmission," 12) "Public Perception and Ethics," 13) "Disease Studies Conducted in Other States." The proposed rule will prohibit the use of baiting to take big game. While not a primary rationale, a ban on the use of bait would likely reduce the overall harvest for some species. Other means of regulating harvest include shortening seasons or reducing authorized permits, which would impact far more people than by restricting the use of bait while hunting. Surveys are conducted in each game management unit to determine, among other things, how many animals can be removed from the population. This number is allocated among the different weapon types in accordance with Commission direction. Final permit numbers, season dates, and overall season lengths are set based upon an anticipated success rate that will yield the desired number of animals to be harvested. If more animals are harvested than anticipated, there are a number of options available to the Commission to reduce the harvest the following year. While prohibiting the use of bait may impact hunter retention and recruitment for individuals who choose to only hunt over bait, a greater number of people will be impacted by not prohibiting the use of bait, through a decrease in permit numbers and shortening of season lengths.

**Written Comment: October 15, 2012.** As a hunter I am concerned about the health of deer and elk in Arizona and also want to see opportunities for hunting continue for all who have the desire to pursue their passion to hunt. I was not aware, until recently, that baiting was allowed for deer and elk as it not my practice to do so. I understand AZGFD's motive to ban feeding and urine scents in relationship to CWD, however, will this also include canine urine? I can also understand the need to regulate hunter success if it is being disproportionately increased in some units as the result of baiting, but I am also concerned that this may impact the ability of those who are physically impaired where baiting may play a significant role in hunter success and whether they have an opportunity to see game. Perhaps if a hunter applies for a CHAMP permit that individual could be permitted to bait in a limited fashion provided some guidelines were met, such as registering the GPS coordinates with AZGFD and having a limit of two sites to be used only by that hunter with an approved bait set out no more than 30 days prior to the hunt in a measured quantity not to exceed say five pounds per week with any residual bait removed at the end of the hunt and no additional sites within ¼ mile be applied for by the hunter, guide, or outfitter.

**Agency Response:** The proposed rule does not prohibit the use of canine urine; only cover scents and attractants that contain cervid urine. CWD is a transmissible spongiform encephalopathy (TSE) of cervids. TSEs are caused by unusual infectious agents known as prions. CWD prions persist in the environment, and animals can become infected through exposure to a contaminated environment. Urine and feces from CWD-positive animals contain CWD prions. These have been shown to be infective to transgenic mice and in a feeding study using deer (Haley et al, 2009). The detection of prions in urine was published in 2009; and in the fall of 2009, several states were considering banning the use of scent baits produced from cervid urine. Since, research has been published that confirms the transmission of CWD to deer through oral administration of feces and urine from an infected animal, and to transgenic mice through nasal instillation of prions. Cervid urine-based scent lures are primarily manufactured from the urine of farmed or captive cervids; game farms are often a source of CWD that then spreads to other farms or to the wild. Based upon available scientific literature, the Commission determined that use of deer urine as bait poses a potential threat. The rationale for banning the use of bait is for the protection of wildlife. Thus, allowing the use of baiting by permit will not resolve the issues brought about by baiting.

**Written Comment: October 16, 2012.** The proposed rule change should not be considered until actual and fair research is completed: How well does the CWD disease survive in Arizona's hot dry climate? Why aren't county and state laws that prohibit the dumping of large bait piles and garbage not being enforced? Currently, there are county and state laws prohibiting the feeding of big game and predators on private property, why aren't these laws enforced? Will a new rule change become another unenforced law? Where and who is doing the baiting that drives this new rule change? Simply enforcing existing laws would stop the baiting activities in question. Making a new rule will not stop the baiting in units 22 and 23 as people can always claim to be feeding the birds. There is no actual proof that salt or bait will spread disease when hunting baits are placed correctly.

**Agency Response:** Please see the information provided in item #6 of the preamble under 5) "Baiting and Supplemental Feeding," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 11) "Disease Transmission," and 13) "Disease Studies Conducted in Other States." A.R.S. § 13-2927 prohibits the feeding of all wildlife in

counties with populations of more than 280,000 persons, which means this statute applies only to Maricopa, Pima, and Pinal counties. All state and local law enforcement agencies may enforce state law; however, law enforcement agencies set their directives in an effort to better manage their own resources, as needed. Part of the rulemaking process is to ensure that any new rule is enforceable. The Department does not collect quantitative data on specific methods used while hunting. When the attractant (bait) is an edible substance, its value as an attractant is very short-lived once it is eaten or removed. The bait itself will have to be refreshed and replaced often, making enforcement easier. A thorough investigation will be conducted by the Department officer prior to making the decision to issue a baiting citation. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. The officer is part of the judicial process, but does not usurp the court's final authority. A major focus of the investigation will be to identify who placed the bait. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation.

**Written Comment: October 16, 2012.** Please take these comments into consideration and take further time to address these concerns before proposing for passage. "The rule is amended to prohibit an individual from placing any substance, device, or object in, on, or near a water source to intentionally restrict wildlife from using the water source to ensure wildlife have adequate access to water sources." Is the rule meant in any way to target infrared flash game cameras or tree stands? This rule change does not hold water, literally. Water can also spread CWD. As far as toxic contaminants go, this should just require those that make attractants to make them safer for animal consumption. Is there any other reasoning behind this rule, like archery deer success? If so, it is not stated. I prefer to have seasons more like bear hunting with a female harvest limit. Why not have a deer harvest limit and more restricted dates?

**Agency Response:** Please see the information provided in item #6 of the preamble under 6) "Agricultural Products, Salt, and Water," 7) "Hunter Opportunity," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 11) "Disease Transmission," and 13) "Disease Studies Conducted in Other States." The proposed language is intended to prevent an individual from placing a cover, chemical, or other deterrent on or near a waterhole to prevent wildlife from using that water source. Cameras and tree stands are not typically used to deter wildlife from using a water source. The Commission does not have the authority to regulate manufacturers or retailers of edible and ingestible substances or attractants.

**Written Comment: October 17, 2012.** The amendments are worded in very vague terms i.e. "The rule is amended to prohibit an individual from placing any substance, device, or object in, on, or near a water source to intentionally restrict wildlife from using the water source to ensure wildlife have adequate access to water sources." This seems to leave the interpretation solely up to authorities on the scene and could vary from one officer to the next. What constitutes adequate access? Is there a distance from a water source that anything could be placed, such as a tree stand or blind? Both of which are a device and could be construed to be restricting wildlife especially when they are occupied. This brings me to... "This rule amendment is consistent with the rule language contained in R12-4-208 and extends this requirement to all hunters, thus increasing consistency among the current set of rules. In addition, the Commission believes that R12-4-303 exists to prohibit devices and methods that either compromise the spirit of fair chase or adversely impact hunter success rates. The recent increase in the use of baiting has resulted in disproportionately high harvest rates among those using this method of hunting. Consequently, the Commission is offering fewer hunting opportunities, which negatively impacts hunter recruitment and retention." This is even vaguer. As far as I know the harvest reports for any of the hunts is voluntary even for the archery hunt since there is no way to document whether a successful archer has called in. So the information provided can vary widely from year to year. I try to return my harvest report cards, but invariably miss one every now and then. As for how the harvest success leads to baiting; that is pure conjecture. I could be wrong, but I've never seen a check box on one of those harvest report cards that asked that question. I do not use bait when I hunt, that is unless AZGFD now considers water as bait, but what if someone decides to throw a salt block or some other supplement in the water; now I am in violation. How will this be enforced? It is already illegal to bait bears but how many bears are killed near a salt lick? No one knows. This brings up so many scenarios and questions that I could go on all day. Lastly, regarding baiting - I understand AZGFD's concern over the spread of disease, especially CWD. However, I do not believe there is proof of any link between the two. New Mexico and Utah do not allow baiting, but both states have documented instances of CWD.

**Agency Response:** Please see the information provided in item #6 of the preamble under "Edible and Ingestible Substances Do Not Include," 6) "Agricultural Products, Salt, and Water," 7) "Hunter Opportunity," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 11) "Disease Transmission," 13) "Disease Studies Conducted in Other States," 14) "Other States That Restrict or Prohibit Baiting," and 15) "Chronic Wasting Disease." The proposed language is intended to prevent an individual from placing a cover, chemical, or other deterrent on or near a waterhole to prevent wildlife from using that water source. Cameras and tree stands are not typically used to deter wildlife from using a water source. Part of the rulemaking process is to ensure that any new rule is enforceable. When the attractant (bait) is an edible substance, its value as an attractant is very short-lived once it is eaten or removed. The bait itself will have to be refreshed and replaced often, making enforcement easier. A thorough investigation will be conducted by the Department officer prior to making the decision to issue a baiting citation. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. The officer is part of the judicial process, but does not usurp the court's final authority. A major focus of the investigation will be to identify who placed the bait. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation. Archers have been required to report their harvest because of the perception that the data from the voluntary harvest surveys were insuf-

ficient to adequately represent actual or comparative harvests with other weapon types. Archers have the ability to purchase non-permit tags for most units without limit (i.e., they are available to any archer that desires to purchase one), whereas general or muzzleloader hunters must apply through the lottery draw to obtain a permit that is limited in number. Because of the difference in permits, the ability to conduct a post-hunt survey for archers is challenging, and return rates are routinely substantially lower (25–35% vs. 45–55%). A recent analysis of the hunter questionnaire program indicates that archery reporting is adequate for management decisions regarding allocation of hunting opportunity and managing harvest. Because voluntary reporting provides the necessary accuracy and precision in harvest estimation, and no other weapon type requires mandatory reporting, the Commission believes that archers should no longer be required to report their harvest, unless using the voluntary harvest report.

**Written Comment: October 23, 2012.** I am concerned with the language that follows: “The rule is amended to prohibit any individual from placing any substance, device, or object in, on, or near a water source to intentionally restrict wildlife from using the water source to ensure wildlife have adequate access to water sources.” Is AZGFD proposing that we can no longer put up a tree stand or portable ground blind to hunt on the water? Archery hunters are very dedicated and spend a tremendous amount of time trying to get an ethical shot. Sitting over or near water is one of the best opportunities we currently have and we can spend days without a shot; it is not a “canned” hunt or a “slam dunk.” Please do not take that away from us. I am not so sure that putting down salt or attractants for deer or elk lead to a lot of success? It is a great scouting tool to use during preseason, but very few of us actually shoot a deer over the salt or attractant during the season. If there is science to suggest that disease is being spread and we are losing animals because of our actions, then present it to the hunting community and we will adjust and agree with you. If it is just a perception that we shoot deer or elk too easily over “bait” I would disagree. **Subsequent Comment: October 23, 2012.** “The proposed language under R12-4-303(C)(3) is intended to prevent an individual from placing a cover, chemical, or other deterrent on or near a waterhole to prevent wildlife from using that water source.” Tree stands are not typically used to deter wildlife from using a water source. I hope AZGFD does ban that practice, it is not right.

**Agency Response:** Please see the information provided in item #6 of the preamble under 6) “Agricultural Products, Salt, and Water,” 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances,” 11) “Disease Transmission,” and 13) “Disease Studies Conducted in Other States.” The proposed language is intended to prevent an individual from placing a cover, chemical, or other deterrent on or near a waterhole to prevent wildlife from using that water source. The proposed language is not intended to prohibit the use of cameras or tree stands. Part of the rulemaking process is to ensure that any new rule is enforceable. When the attractant (bait) is an edible substance, its value as an attractant is very short-lived once it is eaten or removed. The bait itself will have to be refreshed and replaced often, making enforcement easier. A thorough investigation will be conducted by the Department officer prior to making the decision to issue a baiting citation. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. The officer is part of the judicial process, but does not usurp the court’s final authority. A major focus of the investigation will be to identify who placed the bait. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation.

**Written Comment: Submitted by 4 individuals using a form letter provided by CouseWhitetail.com on October 21, 22, 26, 2012.** As a 37-year resident of Arizona and having spent nearly ½ my life in the outdoors in some way shape or form, I wish to convey my opinions in regards to the proposed Article 3 rule change. I am opposed to this rule change; I am opposed to the verbiage; and I am disappointed in the group that is pushing this open ended and discriminatory agenda, and here is why: There is no data collected in Arizona to support a ban on baiting or anything of the sort. Members of AZGFD are taking a fast track approach to this issue (during hunting season) with very little effort to inform those most affected about the “new rule” ramifications. All the “data” AZGFD claims to be using is from states that have 20+ deer per square mile; other than a few residential areas, there are no deer numbers that approach this in Arizona. Water sources concentrate game in Arizona more than any bait source; water is our rarest commodity, yet we are hearing site bait is a danger? We do not have the winters that CWD states have, we do not have “deer yards,” and we do not have major migration routes that concentrate hundreds of animals per sq. mile. We as hunters must realize that supporting “how” others hunt and their personal right to do so is a good thing, especially if it has little effect on you as a hunter. This agenda most affects those we wish to recruit and retain as hunters: children, women, elderly, and handicapped hunters. The fact is no one knows how many animals are harvested over bait; it really does not matter if harvest objectives are in place to ensure a consistent management model. The checks and balances of this are when a unit gets shut for the August or December hunts, because archers harvested the predetermined objective. Opportunity; in recent years, AZGFD dumped tons of tags into the hunts in order to boost “hunter recruitment” and “hunter opportunity,” so why with no real data would we as hunters support a rule that removes opportunity and recruitment for many hunters; specifically: youth, women, elderly, and handicapped? How many \$\$\$ are generated for AZGFD, local businesses, and households in Arizona due to resident and nonresident hunters who use this method? This number is huge. Every small, local archery shop, feed store, sporting goods store, etc. will take a financial hit as well. Check out the “bait” isle at any of these places and you will see how it will affect them, especially the smaller shops. I know many people are “anti-guide,” but many folks feed families and pay mortgages by working in the outdoors and some of those guys will also take a hit, so does not this rule touch on our right to commerce? AZGFD must do its “due diligence” when making a rule change that affects this many different facets of the hunting community. The small group that pushes this agenda has changed their stance on why this rule should be in place every time we hit them with a bullet point that they cannot defend. A rule like this requires data and they have provided none that applies specifically to Arizona and its herd numbers. My personal thoughts about things that must

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happen before a rule change like this is discussed: I do think AZGFD should implement a harvest objective for archery deer hunting in each unit similar to how the bear hunts are operated and that we should not go to a draw for archery deer, mainly because it would be a loss of opportunity and revenue, as well as a waste of resources. I do believe AZGFD should make every effort to stop CWD and other disease at the borders of Arizona, first and foremost. I really do not care how folks harvest deer, if it is legal, then it is also ethical. We should all exercise our rights and freedom of choice. There is no data that suggests that any of the proposed rule changes are unethical or impractical for use here in Arizona. I agree with mandatory success reports for all hunters, not only for outfitters and bow-hunters, but all hunters in Arizona. I do believe AZGFD must perform studies within Arizona in order to formulate consistent data for our deer numbers. This includes hunter reporting, disease studies, and economic studies before the true merit of such a rule change will be presentable. I do believe that many factors in our changing environment and evolution of hunting can affect the herds. However, there is no data to suggest that the ingestible substances being used by hunters are not beneficial to all wildlife and overall to hunting. I having seen bait in use and have witnessed that truly wild deer show very little interest in any "bait" that does not occur naturally in the wild. However, in locations where deer coexist with humans and local homeowners feed the deer, there is a higher success rate. Moreover, these "urban deer" are being concentrated, more so, by the public and not hunters. The "urban deer" are not legally or productively hunted by rifle hunters, therefore the data collected in mandatory harvest numbers is currently skewed because many of these deer are not even harvested where rifle hunters are hunting. Having hunted my whole life, using every advancement in technology, every advantage legally afforded to mankind as the top predator in the food chain, I see no greater advantage in baits than I do in trail cameras, high powered optics, high powered rifles, super accurate muzzleloaders, high tech archery equipment, cross bows, or any other technological advancement and there is no proof that bait causes more success than any other method. Although I am never in support of more laws and rules as we have too many, AZGFD must not propose changes that leave it open to "interpretation." This current verbiage can and will be misinterpreted to include many other facets of hunting including the use of trail cameras, ground blinds, hunting over a water source as a whole, agriculture vs. hunting, and commerce. I hold objection to these sorts of power grabs, by using vague verbiage that can and will leave the door wide open to more changes to the rules, and more infringement on freedom of choice. The two excerpts from the proposed rule change exemplify this: "In addition, the Commission believes that R12-4-303 exists to prohibit devices and methods that either compromise the spirit of fair chase or adversely impact hunter success rates." The Commission should believe nothing of the kind. This not only sets hunters against one another, it depletes the strength and unity between hunters and AZGFD. Such a concept applied to day-to-day life would lead to the government telling us which autos we are "allowed" to purchase with our own money. AZGFD should manage our herds, not hunters. "The recent increase in the use of baiting has resulted in disproportionately high harvest rates among those using this method of hunting. Consequently, the Commission is offering fewer hunting opportunities, which negatively impacts hunter recruitment and retention." There has never been a less accurate statement made by AZGFD, because there is no data to support it. AZGFD has not asked a single hunter if he harvested his animal over bait and I am not sure AZGFD has the right to. The Commission is offering the same or more opportunity today to deer hunters than ever before and lower success rates have never been posted due to more hunting pressure week in and week out in the woods. More hunters are harvesting deer in a spot and stalk method with archery equipment than ever before and there are no stats to support this either. I really do not feel this is the beginning of the end to hunting, but I will say that if Arizona outlaws hunting over bait our success rate will be maintained as it is. We know where to hunt, we are in the field all the time, and know the animals better than most. Hunters will just sit water and whack every buck that comes in; we will be unable to spread out the harvested animals and the concentration of hunting pressure. I do not want to see any changes to the current laws pertaining to R12-4-303. I would like to ask for data pertaining to the fact AZGFD feels that hunters utilizing the method of hunting has affected the deer numbers and the harvest rates. In closing, can anyone currently answer all the following questions that I have pertaining to this issue, as a taxpayer, as a member of the base that provides income to AZGFD, and as an avid hunter and conservationist (if not we must have these answers before such drastic changes are made.); here are my questions: Provide scientific data gathered in Arizona showing the transmission of disease at water sources, bait sites, mineral sites, licking branches, scrapes, and natural food sources. Provide the number of archery deer tags sold in the past 10 years; year by year. Provide factual data pertaining to the number of deer harvested by the archers over the past 10 years; year by year. Provide the number of rifle deer tags sold in the past 10 years; year by year. Provide factual data pertaining to the number of deer harvested by firearm hunters over the past 10 years; year by year. Provide factual data showing with what method archers have utilized to harvest their animal for the past 10 years; e.g. spot and stalk, water holes, salt based products, bait sites, scent products, tree stands, ground blinds, calling, etc. Provide factual data gathered during deer surveys for the past 10 years. Answer the questions: why deer survey numbers are down, but the rifle hunter success is still high? Why archers are the only hunters that have to report deer harvests? If all hunters were required to report their harvests, would AZGFD have better data to manage the game?

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) "Edible and Ingestible Substances Include" 2) "Edible and Ingestible Substances Do Not Include," 3) "Prohibited Activities," 4) "Lawful Activities," 5) "Baiting and Supplemental Feeding," 6) "Agricultural Products, Salt, and Water," 7) "Hunter Opportunity," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 10) "Economic Impacts," 11) "Disease Transmission," 12) "Public Perception and Ethics," 13) "Disease Studies Conducted in Other States," 14) "Other States That Restrict or Prohibit Baiting," 15) "Chronic Wasting Disease." Pursuant to your request for information on research conducted within Arizona on transmission of diseases at water sources or bait sites, the requester was furnished electronic copies of two publications (Water Quality at Wildlife Water Sources in

the Sonoran Desert, United States and Studies of Wildlife Water Developments in Southwestern Arizona: Wildlife Use, Water Quality, Wildlife Diseases, Wildlife Mortalities, and Influences on Native Pollinators). The information requested on general (rifle) and archery deer harvests and tags sold may be found online in *Hunt Arizona* at <http://www.azgfd.gov/regs/HuntArizona2012.pdf> on pages 18 and 20, respectively. Deer survey data may be found on page 10 of the same online publication. Deer hunts have mandatory harvest inspection requirements in place for permit tag hunts; the Department relies on this information as not all surveys are returned. Archers have been required to report their harvest because of the perception that the data from the voluntary harvest surveys were insufficient to adequately represent actual or comparative harvests with other weapon types. Archers have the ability to purchase non-permit tags for most units without limit (i.e., they are available to any archer that desires to purchase one), whereas general or muzzleloader hunters must apply through the lottery draw to obtain a permit that is limited in number. Because of the difference in permits, the ability to conduct a post-hunt survey for archers is challenging, and return rates are routinely substantially lower (25–35% vs. 45–55%). A recent analysis of the hunter questionnaire program indicates that archery reporting is adequate for management decisions regarding allocation of hunting opportunity and managing harvest. Because voluntary reporting provides the necessary accuracy and precision in harvest estimation, and no other weapon type requires mandatory reporting, the Commission believes that archers should no longer be required to report their harvest, unless using the voluntary harvest report.

**Written Comment: October 25, 2012.** AZGFD should consider a provision that any deer or elk under a certain antler size cannot be harvested near bait. In essence, only older animals that may be past their prime reproductive life would be legal to harvest near bait. For example, it would be acceptable to harvest a bull elk with no less than 12 points total, including eye guards, near bait.

**Agency Response:** Please see the information provided in item #6 of the preamble under 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances.” The rationale for banning the use of bait is for the protection of wildlife. Thus, restricting the use of bait will not resolve the issues brought about by baiting.

**Written Comment: October 29, 2012.** I strongly urge AZGFD to reconsider the proposal to ban the use of mineral licks for the purpose of harvesting game animals in Arizona. The use of minerals to harvest game has proved to be a valuable tool in many states as well as adding essential nutrients to the animal’s diet. These minerals add to the overall health and strength of the animal population. I see no current negative effects of allowing the use of minerals, salts, or bait. I am curious to know what AZGFD has found in regards to this and why would it make any sense for officials to do this in an “official” capacity. Prohibiting the use of cervid urine; how is this a problem? This restriction is just crazy. The only negative I can see is the hunters spouse complaining if it were spilled in the home. I enjoy archery hunting more than rifle hunting. The ability to use a cover scent is a huge help to an archer. The use of cover scents or minerals do not provide an unfair advantage to any hunter. Maintaining a health herd of animals is critical to all sportsman as well as the animals themselves. I insist AZGFD not allow these restrictions to be implemented. I believe this will negatively impact our game animals.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) “Edible and Ingestible Substances Include,” 2) “Edible and Ingestible Substances Do Not Include,” 3) “Prohibited Activities,” 4) “Lawful Activities,” 5) “Baiting and Supplemental Feeding,” 6) “Agricultural Products, Salt, and Water,” 7) “Hunter Opportunity,” 8) “Hunter Success,” 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances,” 10) “Economic Impacts,” 11) “Disease Transmission,” 12) “Public Perception and Ethics,” 13) “Disease Studies Conducted in Other States,” 14) “Other States That Restrict or Prohibit Baiting,” 15) “Chronic Wasting Disease.” CWD is a transmissible spongiform encephalopathy (TSE) of cervids. TSEs are caused by unusual infectious agents known as prions. CWD prions persist in the environment, and animals can become infected through exposure to a contaminated environment. Urine and feces from CWD-positive animals contain CWD prions. These have been shown to be infective to transgenic mice and in a feeding study using deer (Haley et al, 2009). The detection of prions in urine was published in 2009; and in the fall of 2009, several states were considering banning the use of scent baits produced from cervid urine. Since, research has been published that confirms the transmission of CWD to deer through oral administration of feces and urine from an infected animal, and to transgenic mice through nasal instillation of prions. Cervid urine-based scent lures are primarily manufactured from the urine of farmed or captive cervids; game farms are often a source of CWD that then spreads to other farms or to the wild. Based upon available scientific literature, the Commission determined that use of deer urine as bait poses a potential threat.

**Written Comment: October 27, 2012.** If AZGFD wants to outlaw baiting, AZGFD should act in a responsible manner and post for public review the empirical data showing that baiting is responsible for CWD. Does AZGFD feel that baiting gives the bowhunter an unfair advantage? Again, where is the scientific data supporting this conclusion? If AZGFD cannot or is unwilling to provide such evidence, then the hunters of Arizona have no other alternative than to suspect an ulterior motive for such a drastic rule change. If the accuracy of harvest data is a problem, then address the problem. Is it political? Don’t change the rules that have served Arizona’s wildlife and hunters well for all these years. Provide the evidence or drop the proposal.

**Agency Response:** Please see the information provided in item #6 of the preamble under 7) “Hunter Success,” 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances,” 11) “Disease Transmission,” and 13) “Disease Studies Conducted in Other States.” The proposed rule will prohibit the use of baiting to take big game. While not a primary rationale, a ban on the use of bait would likely reduce the overall harvest for some species. Other means of regulating harvest include shortening seasons or reducing authorized permits, which would impact far more

people than by restricting the use of bait while hunting. Surveys are conducted in each game management unit to determine, among other things, how many animals can be removed from the population. This number is allocated among the different weapon types in accordance with Commission direction. Final permit numbers, season dates, and overall season lengths are set based upon an anticipated success rate that will yield the desired number of animals to be harvested. If more animals are harvested than anticipated, there are a number of options available to the Commission to reduce the harvest the following year. While prohibiting the use of bait may impact hunter retention and recruitment for individuals who choose to only hunt over bait, a greater number of people will be impacted by not prohibiting the use of bait, through a decrease in permit numbers and shortening of season lengths.

**Written Comment: October 29, 2012.** I don't believe a blanket all species ban is a wise move. I don't bait and have killed only one of the twenty elk I've taken over salt. I want to address buffalo specifically. As we know, management of the House Rock herd is an issue. With the herd residing on park property a majority of the time, access for hunters is limited. I was lucky this year and harvested a buffalo on my archery deer hunt. I targeted buffalo only on my hunt and it still took nearly 12 days to get a chance. I also believe mine was the only buffalo taken during the archery hunt. I hunted over salt in ground blinds. If salt is outlawed, success for buffalo is going to plummet and it is not much now. With herd numbers over 400 AZGFD should consider what it will take to be able to provide hunter opportunity to harvest some of these animals. I know many of the animals harvested on the spring hunt come off or near salt. There is no way the current harvest numbers compensate for the reproduction of a 400 animal herd. AZGFD should exempt buffalo from the baiting restrictions and may want to consider eliminating the one in a lifetime status for the cow hunt to increase participation. Subsequent Comment: October 30, 2012. The 'AZGFD Facts Behind Proposed Baiting Prohibition' webpage provided more information than I have seen so far. Could AZGFD clarify whether other types of salt are okay (i.e., granular, water softener pellets, etc.) are not? Up until now, I was under the impression that all salt was being prohibited.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) "Edible and Ingestible Substances Include," 2) "Edible and Ingestible Substances Do Not Include," and 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances." The rationale for prohibiting the use of bait is for the protection of wildlife. Thus, allowing the use of baiting for specific big game species will not resolve the issues brought about by baiting. The recommendation regarding cow bag limits was forwarded to the Wildlife Management Game Branch for their consideration. The rule does not prohibit the placement of granulated table salt or water softener pellets for wildlife consumption. However, water-softening salts are not intended for animal feeding as the particle size is inappropriate for small animals and may contain additives that are not suitable for animal feeds.

**Written Comment: October 31, 2012.** I oppose this rule change. There cannot be a reliable study done on this issue. It would take years to conduct a study to be able to conclude that "baiting" big game is a health risk for them and that hunters harvest more animals this way. I have never heard of a questionnaire going out to any hunters asking if they use "bait" for big game or if they have ever harvested game over "bait."

**Agency Response:** Please see the information provided in item #6 of the preamble under 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 11) "Disease Transmission," and 13) "Disease Studies Conducted in Other States." The Department does not collect quantitative data on specific methods used while hunting.

**Written Comment: November 5, 2012.** I have been actively hunting in Arizona for almost 20 years. I feel the decision to ban baiting of deer will result in many hunters looking to other states to try and hunt. A lot of out-of-state guides and hunters come to Arizona to hunt due to being able to bait. Without baiting, some areas would become almost impossible to hunt. Baiting is also a huge contribution to what is currently feeding the deer population as well as other animals. I have never heard of baiting resulting in any types of diseases. By banning baiting, the state will lose a lot of revenue with hunters going to other states to hunt. I recommend AZGFD either offer baiting licenses to build revenue or make stricter standards for baiting.

**Agency Response:** Please see the information provided in item #6 of the preamble under 3) "Prohibited Activities," 4) "Lawful Activities," 5) "Baiting and Supplemental Feeding," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 10) "Economic Impacts," 11) "Disease Transmission," and 14) "Other States That Restrict or Prohibit Baiting."

**Written Comment: November 5, 2012.** In regards to the proposed rulemaking regarding baiting; I have not seen any numbers from AZGFD that would show why salt or minerals should be banned. Has or does salt or minerals cause an increase in CWD? If success rates are higher because of salt and minerals, is it at the point that it should be banned across the state or only in some units? If success rates are higher in some units, is the success rate too high? Should AZGFD look into closing units once the harvest objective is reached, as in bear hunting, instead of banning methods?

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) "Edible and Ingestible Substances Include" 2) "Edible and Ingestible Substances Do Not Include," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 11) "Disease Transmission," and 15) "Chronic Wasting Disease." The proposed rule will prohibit the use of baiting to take big game. While not a primary rationale, a ban on the use of bait would likely reduce the overall harvest for some species. Other means of regulating harvest include shortening seasons or reducing authorized permits, which would impact far more people than by restricting the use of bait while hunting. Surveys are conducted in each game management unit to determine, among other things, how many animals can be removed from the population. This number is allocated among the different weapon types in

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accordance with Commission direction. Final permit numbers, season dates, and overall season lengths are set based upon an anticipated success rate that will yield the desired number of animals to be harvested. If more animals are harvested than anticipated, there are a number of options available to the Commission to reduce the harvest the following year. While prohibiting the use of bait may impact hunter retention and recruitment for individuals who choose to only hunt over bait, a greater number of people will be impacted by not prohibiting the use of bait, through a decrease in permit numbers and shortening of season lengths.

**Written Comment: November 5, 2012.** AZGFD will tell me it is about fair chase but it is not; baiting increases harvests for hunters who wait years to get a tag. AZGFD will ban baiting to lower harvest numbers so they can sell more tags to get the harvest numbers back up, not the percentages, but actual harvest counts. Years ago, AZGFD decided to sell more javelina tags by saying smaller herd sizes, seven instead of eleven. Areas where I used to find javelina, now have none. AZGFD's decision killed all the javelina in the area. Hopefully a nearby herd could grow large enough so some might split into the old area, but those javelina herds are also decimated because they can't survive with a herd size of 7. Please do not ban baiting. Let us hunt and harvest as best we can. We don't need more shackles placed on us, we want to harvest game. The hunting population is dying off and AZGFD does not build the sport by reducing the chance of harvest. AZGFD should also change the javelina herd count from seven to eleven, or at least nine so there are more animals. Maybe if El Nino conditions return you can move it back to seven, but there aren't nearly as many javelina as there used to be. When I hear stories about people taking five deer a year or being able to hunt elk every year, I think about moving out-of-state, so I can harvest more game. It takes five or six years to get a deer or elk tag, then I have a 50% harvest chance. Let us harvest the game.

**Agency Response:** Please see the information provided in item #6 of the preamble under 7) "Hunter Opportunity," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 11) "Disease Transmission," and 14) "Other States That Restrict or Prohibit Baiting." The recommendation regarding javelina herd numbers was forwarded to the Wildlife Management Game Branch for their consideration.

**Written Comment: November 5, 2012.** It would have been in AZGFD's best interest if sportsmen and hunters would have been given the opportunity to provide input when this subject first presented itself, instead of how this subject has been presented to the public. One gets the impression that AZGFD is trying to sneak the baiting prohibition past the sportsmen and hunters of Arizona. I am a native and an outdoorsman and hunter for as long as I can remember. Upon finding out about AZGFD's intention to stop baiting in Arizona, I thought it was just in the beginning stage, little did I know that this rule change is almost at the conclusion of the rulemaking process. Then I was made aware that AZGFD has not made the sportsmen and or hunters of this state aware of this very important change that could affect hunters, places of business, outfitters and guides, the disabled, etc. I then become aware that AZGFD has singled out one particular type of hunter within Arizona, specifically the archery hunter. I then become aware this baiting issue is not being initiated as a result of scientific data, economic impact, harvest data, disease control, or any other type of information that could be sited to the hunting population (mainly archery hunters) of this state; it is simply a result of AZGFD employee official perception and discrimination. I guess it is clear by now that I am against this rule change because I hunt with bait and every other way Arizona allows me to hunt ethically and lawfully. Also, the reasons cited by AZGFD are not supported by factual data of any kind; there is no scientific data to support any of the information supplied. As I stated earlier, it is obvious that AZGFD considers the archery hunter to be in a separate class and is not allowed to have the same consideration as a firearms hunter or any other type of hunter recognized within Arizona. If this rule change takes effect, it most definitely will affect business owners in Arizona. For the elderly and disabled, prohibiting baiting will take away most their right and opportunity to hunt in Arizona. I am also a licensed hunting guide in Arizona and this will affect my business as the elderly and disabled will no longer have an opportunity to hunt over bait. Simply put, I am shocked at the way AZGFD presented itself towards archery hunters and the way AZGFD has initiated this no baiting process since its inception. Let data and facts be the prevailing reason to enforce this rule change not perception and discrimination towards a certain class of hunter.

**Agency Response:** Please see the information provided in item #6 of the preamble under 7) "Hunter Opportunity," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 10) "Economic Impacts," 11) "Disease Transmission," and 13) "Disease Studies Conducted in Other States." The Commission has complied with the Administrative Procedures Act (APA) in full. The Commission also believes it has been transparent in its intention to prohibit the use of edible and ingestible substances. The Commission first proposed prohibiting the use of edible and ingestible substances in 2008, the Notices of Rulemaking Docket Opening and Proposed Rulemaking were published in the *Arizona Administrative Register* on January 2, 2009. On January 22, 2009, the Governor issued a directive requesting all state agencies to refrain from rulemaking until April 29, 2009. The moratorium was extended by another directive and since then was continued in one form or another until July 1, 2011. As a result of the rulemaking moratorium, the Commission placed the Article 3 rulemaking on hold. The subject of prohibiting the use of edible and ingestible substances was again presented to the Commission at the August 2012 Commission Meeting. The Notices of Rulemaking Docket Opening and Proposed Rulemaking, which included prohibiting the use of edible and ingestible substances, were presented to the Commission at the September Commission Meeting. The Notices of Rulemaking Docket Opening and Proposed Rulemaking were published in the *Arizona Administrative Register* on October 5, 2012. In addition to the official notice required under the APA, the Department also notified the public of the proposed rulemaking through postcard and e-mail notifications to members of the public who requested rulemaking notifications and by posting a link, under "In the Spotlight: Hunting," to a new page on the Department Internet website providing information regarding the Commission's decision to prohibit the use of edible

and ingestible substances, which may be found online at [http://www.azgfd.gov/inside\\_azgfd/rules/rulemaking\\_baitingProhibit.shtml](http://www.azgfd.gov/inside_azgfd/rules/rulemaking_baitingProhibit.shtml). The Commission believes the proposed amendment is not discriminatory as the use of edible and ingestible substances is unlawful for all persons.

*The agency received the following written comment asking for clarification regarding the proposed rule prohibiting the use of electronic night vision equipment, electronically enhanced light-gathering devices, or thermal imaging devices:*

**Written Comment: November 3, 2012.** I am the Membership Secretary of the Southern AZ Wildlife Callers. This is an organization that has been in existence for more than 50 years. The purpose of the club is multi-faceted, but one purpose is to educate and train hunters in the taking of predators. We are in frequent contact with AZGFD officers and host meetings in which Ron Day and other officers educate us on predation issues and offspring survival rates in regard to attack by coyote, bobcat, and mountain lion. Within the last 60 days Ron presented updated information to our club. Through discussion, it was learned that coyotes stay just out of range of artificial light making shots extremely difficult. I fully understand the idea of ensuing fair chase, but do not understand the issue of increased safety. Artificial light may have some signaling advantage to alert other hunters, but it also alerts the intended target as they also see better than humans in the visible light spectrum. I therefore pose this question: Is AZGFD allowing “day-long” hunting for sport or to reduce the number of predators? I argue that it is to reduce predators and allow a higher survival rate of newborn animals. The state already pays great amounts of money to control overpopulation of coyotes with helicopter culling. Why not help reduce state costs if hunters will assist at their cost? Weapon grade (recoil resistant) night vision (image intensifiers or thermal) with targeting capability is very expensive. Based on price alone I submit that the number of hunters using it is small. AZGFD could allow a Letter of Authorization (with fee if necessary) to those that apply. This application requirement would allow the state to determine just how many hunters using this technology there really are. I have not seen and actual study on why night vision should be restricted and question if it even exists. I therefore recommend: Hunting for predators be allowed with night vision until it is determined that it is a flawed authorization. I understand that AZGFD wants to take “baby steps” toward implementation of night hunting, but AZGFD also needs to look to neighboring states who have authorized day-long hunts for years without issue. Night vision should be allowed.

**Agency Response:** The Commission disagrees. Night hunters identify their quarry by its eye shine. Under normal circumstances, the human eye does not produce a ‘shine.’ However, the human eye will produce a ‘shine; when seen through night vision equipment; making the use of this equipment a safety hazard.

*The agency received the following written comment asking the Commission to prohibit shooting turkey while on the roost:*

**Written Comment: November 5, 2012.** The Arizona State Chapter of the National Wild Turkey Federation appreciates the opportunity to comment on the Department’s proposed rule changes. Specifically, the NWTF supports the proposed changes to R12-4-303 prohibiting baiting. The wild turkey is probably the most vulnerable to baiting of any of the big game species. In addition to the threats from disease and poisoning that can be created with baiting, the ease with which turkeys are drawn to bait is not consistent with the principles of fair chase. We also applaud and support the Department’s proposed changes to R12-4-304 to eliminate the confusion between the existing rule and Commission Orders relative to the weapons that may be used to harvest a turkey. We believe strongly that archery equipment, including crossbows, and shotguns shooting shot should be the only legal methods of take. Safety and ethics are our primary reasons for this position. We again ask that the Department add a prohibition of shooting turkey while on the roost. Consistent with the proposal to prohibit the “canned” or “will call” hunts for lion and bear, as we believe that shooting a turkey while they are on the roost is neither ethical nor consistent with the principles of fair chase. Thank you for the hard work that went into the development of these proposed changes and the opportunity to comment.

**Agency Response:** The Commission appreciates the support of the Arizona State Chapter of the National Wild Turkey Federation. Prohibiting the take of turkey while on the roost cannot be added to the final rulemaking as it is considered a substantial substantive change. However, your comment will be placed in the rulemaking record to be considered by the next Article 3 review team.

*The agency received the following written comments asking for clarification regarding the proposed rule prohibiting the placement of any substance, device, or object in, on, or by any water source to prevent wildlife from using that water source:*

**Written Comment: October 24, 2012.** The wording of the new amendment could be interpreted to possibly restrict the use of blinds or tree stands near or over a water source such as a water hole, pond, drinker, trick tank or water trough. I am not in favor of restricting hunting near a water source by use of a tree stand or blind. I do not believe that a tree stand or blind would limit access to the water but that could be up to interpretation as to how disturbing to wildlife the use of a tree stand or blind is on a water source according to the current wording.

**Agency Response:** The proposed language is intended to prevent an individual from placing a cover, chemical, or other deterrent on or near a waterhole to prevent wildlife from using that water source. Tree stands and blinds are not typically used to deter wildlife from using a water source.

*The agency received the following written comment regarding amendments made to R12-4-304:*

Notices of Final Rulemaking

**Written Comment: November 5, 2012.** We have over 10 years of direct experience and research conducted in support of endangered species listings, impacts, and mitigations for Southwestern Willow Flycatcher and Least Bell's Vireo. With the permission and guidance of the California Department of Fish and Game, U.S. Fish and Wildlife Service, and Department of Defense in Southern California, we were involved in various research studies, surveys, and cowbird management methods in riparian habitats to include the Santa Margarita River watershed, the San Luis Rey River watershed, Sweetwater River watershed, San Diego River watershed, Pauma Creek watershed, Pilgrim Creek watershed, and Trabuco Creek watershed. It has been well documented and researched that the seasonal decrease in the number of breeding bronzed and brown-headed cowbirds results in an increase in the nesting success of neo-tropical spring migrants, which includes the target endangered species as well as non-target neo-tropical spring migrants. It is true that the complete elimination of brown and bronzed headed cowbirds is not feasible, however, without the ongoing control of the brown and bronzed-headed cowbird populations, many listed, sensitive, and neo-tropical migrants have been extirpated or greatly reduced in their numbers from their historical ranges. These facts need to be strongly considered when an official decision is made to control brood parasitic migrants. Decisions should also consider the fact that bronze and brown-headed cowbirds are not native to habitats located west of the Continental Divide (Rocky Mountains), where they are native within the prairie states. Therefore, brown and bronzed-headed cowbirds located in the western states should be considered non-native invasives and subject to the rule of take, just as Eurasian Collared-doves are. Due to the above facts, ongoing cowbird management should be included as part of this rulemaking and should include the standardized methods employed in many other states that allow for and actively manage cowbird populations. We have the experience and knowledge to assist with this type of program and would highly recommend that cowbirds be treated as detrimental non-native invasive species. "R12-4-322 is promulgated to allow individuals to pick up and possess naturally shed antlers, horns or other wildlife parts that are not fresh without a permit or Department inspection. The proposed rule does authorize the possession of any threatened or endangered species carcasses or its parts." "R12-4-322. Pickup and Possession of Wildlife Carcasses or Parts, F. This Section does not authorize the pickup and possession of an threatened or endangered species carcass or its parts." Please note the language discrepancy.

**Agency Response:** The brown and bronze-headed cowbird is a listed migratory bird under 50 CFR Chapter 1, Part 10.13. Allowing the take of brown and bronzed-headed cowbirds is prohibited under the Migratory Bird Treaty Act, which makes it unlawful to pursue, hunt, take, capture, kill, or sell any of the birds listed therein. The language discrepancy has been corrected.

*The agency received the following written comments regarding amendments made to R12-4-307:*

**Written Comment: November 4, 2012.** I applaud the rulemaking changes in R12-3-307 to require more state of the art trapping methods and make trapping more humane. However, I believe that most, if not all, trapping should be prohibited. I do not oppose the take of wildlife in general, but even using modern methods trapping results in incidental take of non-target species. For this reason, trapping should be severely restricted or prohibited. I do understand that modern methods are more humane for target species and less harmful for non-target species, but I believe it is a hunters responsibility to positively identify a species before any take occurs and this simply cannot be done with traps. Furthermore, I believe that the definition of a take includes harassment and traps certainly qualify as harassment. Furthermore, I am not sure that the safety devices built in to modern traps are sufficient. For example, a minimum cable loop diameter of 2 inches might be fine for reducing the chance of injury to a bobcat, but would be insufficient to protect a jaguar, which have been seen with growing regularity in southern Arizona. For these reasons, I ask AZGFD to consider prohibiting trapping in Arizona.

**Agency Response:** The Commission disagrees. Trapping plays a significant role in conservation. Trapping is a highly regulated activity; restrictions on species that may be harvested, harvest seasons, trap types, trapping methods and areas open to trapping are examples of some of the guidelines and regulations the agency regularly reviews, implements, and enforces. Trapping is an element of many wildlife successful wildlife management programs. In some cases, local populations of furbearers are controlled, thereby helping to minimize human-wildlife conflicts and mitigate habitat changes brought about by certain furbearer species. Similarly, trapping contributes to the protection of threatened and endangered species by controlling predators. Trapping also is used to relocate animals to and restore populations in areas where conditions are suitable for the species to thrive. In addition, biologists collect important ecological information about wildlife through the use of trapping. Preferred habitats, migration patterns, and population indices for some species of wildlife are determined through mark and recapture programs and by monitoring regulated harvest levels. In addition, trapping can help reduce the exposure of humans and pets to rabies and other diseases.

*The agency received the following written comments regarding amendments made to R12-4-313:*

**Written Comment: October 14, 2012.** Please do away with the limit on the number of fishing poles a person can use. A person can effectively only use one pole at a time anyway. If AZGFD must charge a fee, at least say that for an added amount people can use an unlimited number of poles. I have fished Arkansas Kansas, Louisiana, Oklahoma, and Texas and none of those states charge for the number of poles used.

**Agency Response:** Under A.R.S. § 17-101(A)(1), 'angling' means the taking of fish by one line. In addition, A.R.S. § 17-333(A)(43) limits the Commission to offering a two-pole stamp. Allowing an unlimited number of poles will require a statutory amendment.

**Written Comment:** October 24, 2012. I am a 25-year resident of Arizona and have enjoyed hunting and fishing activities with my family since we moved here in 1987. I would like to comment on Rule R12-4-313(D)(3)(a). It is my opinion that the 4' radius cast net size restriction should be increased to 5' or 6' to make fishing with live bait a more viable option for new and existing anglers. Increasing the minimum radius or removing this restriction would also increase consistency with surrounding states (Utah – 5', New Mexico – no limit, Colorado – no limit, and Texas – 7'). In the past 10 years, I have taken a personal interest in taking my friends, coworkers, and acquaintances and their children with very little fishing experience with me when I go fishing in an attempt to get them interested in fishing. Experience has shown the use of bait consistently results in greater fishing success and enjoyment - least for newer anglers. Fishing with bait (specifically threadfin shad) requires less skill, less knowledge, and less equipment than artificial lures and is perfectly suited for recruiting new anglers. For the novice angler, the countless lure options encountered when walking into tackle shops can be overwhelming. The average person does not have the time to master the artificial lure techniques necessary for successful fishing experienced by professional or competitive anglers. The use of live bait presents a much simpler and less expensive option. Increasing the size limit of cast nets may allow for improved angler recruitment and satisfaction because of higher catch rates in waters where live bait is permitted. I will use threadfin shad as an example to specifically describe my experiences: on days when bait is scarce, it can take considerable time and effort to collect enough bait to fish with for the day I will throw the net until I get the 30 shad that we need, regardless of the net size I am using. Some days it may take only 15 minutes, on tough days it may take well over an hour. A larger net will allow anglers, especially inexperienced anglers, to more efficiently gather bait and have more time for actual fishing. The allowable radius of 4' results in a maximum net surface area of 50 square feet with the current regulation. Increasing the allowable net size by only a foot would yield a surface area of 78 square feet, nearly a 60% increase in surface area. With two throws of a 5' net, I cover as much water as three throws of a 4' net. A single throw from a 6' net covers over twice the water than a 4' net. Simply stated, larger nets equal less time and effort to catch the same amount of bait. If the intent of this restriction is to limit the incidental and/or unlawful take of game fish with larger cast nets, I feel that this is a law enforcement issue vs. a biological resource issue. Perhaps AZGFD could do a quick check of their law enforcement database and find if existing law enforcement data purports the restriction. Is there a pattern of sustained public complaints? Furthermore, other existing restrictions describe the legal methods of take for game fish as defined under R12-4-313. If the intent of the restriction is to limit the amount of bait harvested and used by anglers, a biological resource concern, I think it would be more beneficial to provide daily limits on the take of bait species. Although not a fisheries biologist, it does not appear that populations of threadfin shad are suffering from over harvest from anglers, although AZGFD may have survey and population data that would refute this statement. If this is not enough to satisfy concerns, a provision could be inserted in the proposed rule that any non-baitfish species caught in cast nets shall be immediately released. R12-4-313(D)(3) could include language as follows; "All non-baitfish species captured in any of the devices described herein must be immediately released." I hope AZGFD will consider this minor rule amendment to make it easier for people in Arizona to go fishing. I know several fishermen that use live baitfish that would spend much more time fishing and less time bait collecting if larger cast nets were permitted in Arizona. With the high cost of fuel and seemingly less opportunities to spend outdoors, it is more important than ever to optimize the time we have recreating with our friends and families.

**Agency Response:** The Commission chose to set the size limit at 4' to increase consistency between state regulations where shared waters exist. Nevada limits the size of a cast net and 4'; California prohibits the use of cast (throw) nets on inland waters. In addition, the Commission believes the 4' net reduces the chance of incidental take of sportfish.

**The agency received the following written comment regarding amendments made to R12-4-319:**

**Written Comment: October 13, 2012.** R12-4-319 is totally confusing and written very poorly. **Subsequent Comment: October 15, 2012.** At first reading, the rule seems to say you can locate or view wildlife with an aircraft up to 48 hours before your hunt. After further examination, it states that you can do so, only if no other open big game season is in progress, which is an oxymoron and cannot happen; this would leave about a week a year. AZGFD does not have the authority to control airspace and that is exactly what AZGFD is doing with this rule. Tell me the available days I can legally locate and view big game with my aircraft - not pursue, chase, harass, or take - simply look at big game. This entire view of aircraft and wildlife is so overblown it is not even reasonable. The only way it should be illegal is if you are in an airplane and directing someone on the ground by means of a radio or some other form of communication. Forty-eight hours prior to a hunt is fine with me.

**Agency Response:** It is true that the rule will, in some cases, prohibit a tagholder from using aircraft to locate game, for which he has a tag, 48 hours or more prior to the start of his specific hunt if another hunt is going on in the area. However, the Commission believes that the need for the rule far outweighs any inconveniences the rule may cause an individual hunter. Constituency input indicates that the rule is needed both as a wildlife management tool and a public safety measure. The Commission is responsible for preserving wildlife and for ensuring the safety and quality of the hunt for all hunters. In addition to the health benefits to wildlife, the restriction on scouting during a different hunt helps ensure that the hunters on the ground have a quality experience.

**The agency received the following written comments addressing amendments proposed for multiple subjects:**

**Comment: October 14, 2012.** Although most of the proposed changes make good common sense, please be aware that I am adamantly opposed to the changes dealing with edible and ingestible substances and the use of night vision and light gathering devices. I feel these changes are not based on scientific fact, but emotion. The Department states

this is due to an increase in harvest. Truth is, this method of hunting has always been legal in Arizona and although the method has increased in popularity over the past decade. AZGFD's own records plainly show harvest rates have not increased. In fact, harvest rates are steadily declining because of all the hunters allowed in the field. Archery elk rates have dropped over the past five years across most of the Mogollon Rim to 30% of past success rates? Harvest rates for other big game animals show the same trend. AZGFD states these are "toxic" substances. Truth is, most attractants and nutritional supplements available for purchase today were developed by some of the country's best game biologists. They are definitely not toxic and in fact are extremely healthy for the multitude of animals that eat these substances. Making nutritional supplements illegal in an environment as harsh as Arizona certainly does not make sense, as they improve general body condition and health. AZGFD states edible substances cause game animals to congregate and increase chances of disease. Truth is, big game animals are herd animals anyway and congregate naturally. The limiting factor for most big game in Arizona is water. These game animals constantly drink out of the same water holes and leave their slobber behind every time they do. Since water is a breeding ground for bacteria, if anything is going to spread disease it is going to be the water. Salt on the other hand naturally kills bacteria, which is why it makes a great food preservative. Since most of the attractants are salt based they are of very little threat. I work for a local sporting goods retailer. As with most businesses these days, retailers are struggling to keep their doors open. The only exemptions stated in the proposed changes are "Salt or salt based materials produced and manufactured for the livestock industry." This change in legislation would virtually outlaw every single supplement and attractant we sell. The economic impact to the state would be extremely negative. The negative financial effect to all the sporting goods retailers across the state and the negative financial effect of the lost tax revenue by Arizona would be significant. Our business has supported AZGFD with tens of thousands of dollars in donations since we've been in business here. I know many other sporting goods retailers who do the same thing to the extent that they can. For AZGFD to willfully and wantonly take away a good portion of our business is a huge slap in the face. This truth remains constant; If AZGFD initiates legislation that takes away a significant portion of our profits, then we will have less profit available for donations; if we have any funds available to give at all. I'll quote from the proposed rulemaking document, "it is necessary to restrict the use of night vision equipment as it provides an advantage to increase safety, protect the sport of hunting, and ensure fair chase. I think this is definitely based on emotion and not sound scientific evidence, as this proposed rule flies in the face of common sense. Raccoon hunting at night has been legal for as long as I can remember and now AZGFD has added to other opportunities for nighttime hunting. Night Vision Equipment and Light Gathering Devices such as optics increase public safety exponentially. They do not decrease it. These devices allow a nighttime hunter to positively identify their game, make sure there is nothing else in the area that might be inadvertently harmed, and make clean humane kills. Since these devices substantially increase public safety, they should be legal? Why live in the dark ages and put people's lives in jeopardy when it is not necessary? Once again this is definitely not based on sound scientific evidence, but simply a desire of AZGFD. I feel it is very apparent these two items are simply control issues for AZGFD and are not based on scientific game management principles and should be eliminated from the proposed changes.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) "Edible and Ingestible Substances Include," 2) "Edible and Ingestible Substances Do Not Include," 5) "Baiting and Supplemental Feeding," 6) "Agricultural Products, Salt, and Water," 7) "Hunter Opportunity," 8) "Hunter Success," 9) "Commission's Rationale for Prohibiting Edible and Ingestible Substances," 10) "Economic Impacts," and 11) "Disease Transmission." While nutritional substances manufactured for the livestock industry are regulated by the Department of Agriculture, edible and ingestible substances manufactured for the hunting industry are not subject to any regulation. Night hunters identify their quarry by its eye shine. Under normal circumstances, the human eye does not produce a 'shine.' However, the human eye will produce a 'shine' when seen through night vision equipment; making the use of this equipment a safety hazard.

**Written Comment: October 16, 2012.** I have questions in regards to some of the proposed rule changes, please bear with me as some may seem simple: Are the proposed changes to go into effect immediately following the January 11th meeting or will they not go into effect until the 2013/2014 regulations? "The rule is also amended to prohibit the use of dogs to pursue or hold at bay any bear or lion for another hunter unless the hunter is present for the entire pursuit to more closely regulate the pursuit of bears and lions with dogs and increase consistency within Commission rules." What is considered the entire hunt? Is it from the time the dogs are released or start a track? Is a hunter in the general vicinity considered to be "present"? "The rule is amended to require an individual using dogs to pursue bear or mountain lion to immediately kill or release the bear or mountain lion after it has been treed, cornered, or held at bay to prevent "canned" and "will call" hunts." What is considered "immediately"? My concern is if the hunter is lagging behind the dog owner in getting to the tree or bay up by, say by 30 minutes, is that going to be considered "holding"? "The rule is amended to allow the use of specific foot snares as today's foot snares are both humane and effective; this amendment also makes the rule consistent with BMP for trapping as recommended by AFWA. Advances in trapping technology relating to foothold snares require new regulations for their use or restriction. A foot snare uses a spring-loaded steel cable loop suspended around the tripping pan to trap an animal by the leg or foot. When the animal compresses the pan in the center and springs the trap, the cable loop closes around the animal's leg or foot to a preset diameter. The preset diameter of the loop keeps the snare from closing to a small diameter so it does not cut off an animal's circulation. Because these foothold snares are both humane and effective, the Commission supports their use." Is this intended to allow for the use of snares on public land or will they be limited to private land only and will the same apply to traditional spring/jaw traps? Is there a specific on which snares are to be legalized? "A trapper shall not bait a confinement trap with any part of any game bird or nongame bird. What is considered an

“edible part of small game”? Does that include a head or foot of a rabbit? Are egg shells considered a part of a game bird or nongame bird? The rule requires trappers to inspect traps daily; we would like to see this extended to 72 hours between check intervals. I would like to also see restrictions in non-residents being allowed to trap bobcats from states that do not allow our residents to trap bobcats in their home states.

**Agency Response:** If approved by the Governor’s Regulatory Review Council, the Commission anticipates the final rule will become effective July 1, 2013. The hunter must be in the field and actively participating in the hunt; not at camp or a nearby lodge or cabin. A dog owner whose hunting partner is lagging behind is not in violation of the proposed rule. Under A.R.S. § 17-301, it continues to be unlawful to use any foothold trap or snare on any public land unless the snare or trap is not designed to kill; the rule does not allow for the use of foothold traps or snares on public land. Any snare that meets the following requirements may be used: An inside frame hinge width no wider than six inches, a cable loop stop size of at least two inches in diameter, and a device to allow for a pan tension adjustment. Edible parts include breast, loin, front leg quarter, hind leg quarter; it would not include the head or foot of a rabbit. Egg shells are not considered to be part of a game bird or nongame bird. Under A.R.S. § 17-361(B), all traps in use shall be inspected daily. Extending the inspection time-frame will require a statutory amendment. The Commission may restrict nonresident take by Commission Order; a rule amendment is not required. Your comment will be forwarded to the Department’s Game Branch for consideration.

**Written Comment: October 20, 2012.** First, all steel trapping should be eliminated in Arizona. It is non-species specific, cruel, inhumane, unnecessary, and people do not wear bobcat or other pelts. AZGFD should remove them from the allowed hunting techniques. Second, no one in Arizona needs to possess a wild raptor. This rule needs to be repealed. A raptor going to a rehabilitation facility is different and should be allowed. Third, AZGFD should not allow trapping or shooting of predatory wildlife. If there is a problem animal, then AZGFD needs to address that animal. Most people would love to see a coyote, cougar, bear, or bobcat, but AZGFD allows wanton shooting and trapping on lands we like to visit; that is wrong.

**Agency Response:** Trapping is a highly regulated activity; restrictions on species that may be harvested, harvest seasons, trap types, trapping methods and areas open to trapping are examples of some of the guidelines and regulations the agency regularly reviews, implements, and enforces. Trapping is an element of many wildlife successful wildlife management programs. In some cases, local populations of furbearers are controlled, thereby helping to minimize human-wildlife conflicts and mitigate habitat changes brought about by certain furbearer species. Similarly, trapping contributes to the protection of threatened and endangered species by controlling predators. Trapping also is used to relocate animals to and restore populations in areas where conditions are suitable for the species to thrive. In addition, biologists collect important ecological information about wildlife through the use of trapping. Preferred habitats, migration patterns, and population indices for some species of wildlife are determined through mark and recapture programs and by monitoring regulated harvest levels. In addition, trapping can help reduce the exposure of humans and pets to rabies and other diseases. Trapping is widely recognized by the wildlife conservation community as a beneficial outdoor activity, providing food, clothing, cosmetic items, artists’ supplies and other products. Historically, wildlife professionals, trappers and trapper associations have worked to improve trapping methods and techniques to ensure traps and trapping systems being used today are the best available. The agency follows the Association of Fish and Wildlife Agencies Best Management Practices; which are based on the most extensive study of animal traps ever conducted in the United States. Statisticians from universities and federal and state agencies developed rigorous study designs. Experienced wildlife biologists and trappers developed study procedures, supervised or participated in field research and provided insight and expert technical advice on trapping methods to ensure the completion of each project. All types of traps used on land to hold live animals were evaluated using five performance criteria: animal welfare, efficiency, selectivity, practicality, and safety. The powered cable device, added to lawful devices under R12-4-307(I)(3), uses a mechanical feature, such as a spring, to throw a cable around the target animal’s foot. The powered cable device is designed to draw smaller as the animal pulls against it, but does not continue to close when the animal stops pulling. It also has break-away components allow the target animal to escape if it pulls against the device with sufficient force. In addition, the device employs loop stops that are used to maintain the cable loop at a minimum or maximum diameter, or both. The maximum loop stop prevents larger animals from entering the cable loop, while the minimum loop prevents the cable loop from closing around an animal’s foot.

Falconry is also a highly regulated activity; education and experience standards, restrictions on species that may be captured, possession and captivity standards, capture methods are examples of some of the guidelines and regulations the agency regularly reviews, implements, and enforces. Studies conducted on the impact of falconry on wild populations indicate falconry is beneficial to wildlife populations. 80% of raptors born in the wild do not make it through the first winter. Out of the surviving 20%, 60% will not make it through the second winter. Many falconers capture a raptor that is underweight and help improve the raptor's hunting skills before releasing it back in the wild. When a falconer takes a chick from a wild raptor's nest, research indicates the remaining chicks actually have a better survivability rate. There are regulations limiting the number of chicks that may be taken and how many must be left in a nest. When a chick is removed, the parents have fewer chicks to feed and focus their resources on. Many times when a falconer has been to a nest he has also noticed parasites and treated the chicks to help them survive. When a falconer takes a flighted bird from the wild, it is always under one year of age. Many times these birds have been found to have disease or parasites that make them less fit. The falconer will treat them and, when they are released back to the wild, the raptor will actually be healthier. Raptors are flown free and have the ability to choose whether to remain wild or return to the falconer; falconers fly the raptor with equipment that can be removed by the raptor if it

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chooses to remain in the wild. The falconer benefits from the fact that the falconer increases the raptors success in the field and, if not successful in the field, the raptor will be fed by the falconer. In addition to the birds the falconers take and release, many falconers also rehabilitate raptors. They use their knowledge from handling and managing birds to impact wild birds in a positive manner. They often work closely with the agency and licensed wildlife rehabilitators to coordinate and handle injured wildlife. Falconry involves maintaining not only the traditional culture that builds practical skills of empathy with animals, but also the conservation of raptors and their prey through preservation of natural habitats.

The agency believes the long-term sustainability of wildlife populations is extremely important. The agency invests a great amount of resources to monitor wildlife populations, map critical habitats, and acquire and manage land for habitat conservation. For most of us, what we do for a living is not a job, but our passion. The agency believes that the regulated utilization of the resource is ecologically sound and environmentally beneficial. Regulated harvest helps to maintain wild populations (decreases the potential for negative interactions between humans and wildlife, i.e. bears at bird feeders or on porches, coyote attacks).

Regulated harvest provides a local, healthy, organic source of food (or clothing) with minimal impacts to other resources. Many of our other sources of food and clothing require the conversion of wildlife habitat (cotton - bear habitat, citrus groves - wetlands; beef cattle - prairie and desert ecosystems), transportation costs (use of gas/oil, pollution, energy for refrigeration, etc.), and often the use of a broad array of chemicals and pesticides to produce. Regulated harvest helps to maintain some populations in ecological balance with their habitat, many of which are increasing due to human changes to the landscape (conversion of land to suburban/agricultural habitats). Regulated harvest also provides an opportunity for millions of people to interact with nature and the out-of-doors thereby fostering stewardship and conservation efforts.

**Written Comment: October 22, 2012.** I have reviewed rule changes proposed for Article 3. I commend AZGFD for an excellent and much needed review and revision of this important series of rules. I have a few comments, as follows: R12-4-101(4), I strongly urge AZGFD to consider using a word other than “weapon” when describing a firearm or other device used to take wildlife as weapon really does not define a firearm. I hope a suitable substitute can be found for this misused word. R12-4-303(C)(7), replace word “gun” with firearm. R12-4-303(C)(8), instead of “weapon” use another word, such as “device”. R12-4-303(D). I commend AZGFD for finally eliminating the use of bait to take wildlife. Baiting is not good for our wildlife and it does not convey an image of fair chase as associated with hunting. Use of bait tends to concentrate wildlife, alter habits, and create a means for the transmission of disease. It also leads to social conflicts between hunters and can bring out the absolute worst behavioral traits in individuals. I also commend AZGFD for not including salt in the prohibited means of take as it is widespread throughout the state and if included would only serve to complicate the intent of the rule. R12-4-306 is well written as proposed and seems to improve greatly on the old rule. R12-4-322, I wrestled with this rule when it was considered as a policy in the mid-90s. It was tough concept to put into writing, but I think AZGFD has done well by it.

**Agency Response:** The definition was a combination of both A.R.S. Title 13 firearm definitions; the Commission believes the current wording will suffice for the Commission’s purposes. For R12-4-303(C)(7), the term “gun” was replaced with “shotgun.” For R12-4-303(C)(8), the Commission believes the current wording will suffice for the Commission’s purposes. The Commission appreciates your support.

**Written Comment: November 5, 2012.** I disagree with the following segments of the proposed amendments and feel the amendments should be omitted or the rules left as they are: R12-4-303(B)(3), (C)(6), and (D). I simply oppose this. R12-4-304(A)(9), the Commission proposes to remove .22 rimfire magnum rifles, 5 mm rimfire magnum rifles; and .17 rimfire magnum rifles from the list of acceptable methods for the take of turkey. I simply oppose this and feel these should be allowed. The lighter recoiling weapon of these cartridges can be beneficial for kids; women, and anyone who may be recoil sensitive. R12-4-305(I), there should be an allowance for transportation to a meat processor and or taxidermist. This is not only more cost effective for residents who hunt out-of-state, but also keeps money here in our state for those local services.

**Agency Response:** Please see the information provided in item #6 of the preamble under 1) “Edible and Ingestible Substances Include” 2) “Edible and Ingestible Substances Do Not Include,” 3) “Prohibited Activities,” 4) “Lawful Activities,” 5) “Baiting and Supplemental Feeding,” 6) “Agricultural Products, Salt, and Water,” 7) “Hunter Opportunity,” 8) “Hunter Success,” 9) “Commission’s Rationale for Prohibiting Edible and Ingestible Substances,” 10) “Economic Impacts,” 11) “Disease Transmission,” 12) “Public Perception and Ethics,” 13) “Disease Studies Conducted in Other States,” 14) “Other States That Restrict or Prohibit Baiting,” 15) “Chronic Wasting Disease.” A continuing Department concern is the occurrence of “will call” hunts, where an individual hunting with the aid of dogs holds a lion or bear at bay during an open season and calls another hunter who has a tag for the species to make the kill. Because pursuit falls under the definition of take, it is considered a method of take and appropriately included in this rule. This rule amendment is consistent with the rule language contained in R12-4-208 and extends this requirement to all hunters, thus increasing consistency among the current set of rules. Historically, the Commission by Order has only permitted the take of turkey with bow and arrow, crossbow, and shotgun shooting shot; providing a laundry list of methods and devices that will not be allowed by order is confusing to members of the public. The Commission proactively addresses CWD concerns by regulating the importation of carcasses and parts of cervids into the state; rather than ban the importation of cervid carcasses or parts, the Commission chooses to allow the importation of cervid carcasses and parts that have had suspect tissues removed. The rationale for regulating the importation of cervid

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carcasses and parts is for the protection of wildlife. Thus, allowing persons to import cervid for transport to a meat processor and or taxidermist will not resolve the issues brought about by baiting.

**Written Comment: November 4, 2012.** For R12-4-303, I agree and support the changes to baiting big game as written. For R12-4-304, the rule is amended to require an individual using dogs to pursue bear or mountain lion to immediately kill or release the bear or mountain lion after it has been treed, cornered, or held at bay to prevent “canned” and “will call” hunts. I understand the change to this rule, but the term immediately is subject to interpretation (immediately: without laps of time, without delay, instant). I have talked to Gabriel Paz on this and understand AZGFD’s position. However, my concern is that I have hunted mountain lions with dogs for over 30 years. I only kill male lions and sometimes it takes in excess of 30 minutes to determine the sex of the treed lion. Then I will decide whether to kill or release the lion. I also need to train the dogs, which means making sure all the puppies are there and barking this can take up to an hour or longer. Regardless of whether I release or kill the lion, I like to get pictures of the treed lion and that takes time too. If the new rule is approved as written, the time taken to determine the sex of the lion, work with my dogs, and take pictures will put me in violation of the rules. There has to be a better way to stop the canned or will call hunts. The hunter already has to be present during the entire pursuit. What difference does it make if we take an hour or so to decide whether to kill the lion or not. My hunting privileges are very important to me, so I don’t want to violate any rule. I don’t want my hunting privileges put in jeopardy by a new warden who has no hunting experience deciding if I am in violation of this rule. Sometimes I can’t keep up with the dogs and the lion stays treed for close to 12 hours before I could get to the tree. Would this also be subject to interpretation? From a distance it would appear that I would be violating this rule, when actually I am not. Please consider making this rule more realistic.

**Agency Response:** The Commission appreciates your support. The Director will issue a directive to clearly communicate the Department’s interpretation of the rule to address your concerns.

**12. All agencies’ shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:**

Consistent with A.R.S. § 41-1037(A)(2), the rules require alternative permits specifically authorized under A.R.S. §§ 17-307, 17-331, 17-333, 17-333.01, 17-333.02, 17-333.03, and 17-342.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:**

50 CFR Part 20 is applicable to the subject of the rule as it regulates the take of migratory birds; the rule is not more stringent than federal law.

**c. Whether a person submitted an analysis to the agency that compares the rule’s impact on the competitiveness of business in this state to the impact on business in other states:**

The agency has not received an analysis.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

50 CFR 20.21, revised October 1, 2009, referenced under R12-4-303(A)(3)(g) and R12-4-304(B)(3)(e)(ii).

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

The rules were not previously made, amended, or repealed as an emergency rule.

**15. The full text of the rules follows:**

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section  
R12-4-101. Definitions

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

Section  
R12-4-301. Definitions  
R12-4-302. Use of Tags  
R12-4-303. Unlawful Devices, Methods, and Ammunition

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- R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles
- R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife
- R12-4-306. Buffalo Hunt Requirements
- R12-4-307. Trapping Regulations; Licensing; Methods; Tagging of Bobcat Pelts
- R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks
- R12-4-309. Authorization for Use of Drugs on Wildlife
- R12-4-310. Fishing Permits
- R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License or Hunting License While Taking Aquatic Wildlife
- R12-4-312. Special Use Permits and Stamps for Fishing on Waters with Shared Jurisdiction
- R12-4-313. Lawful Methods of Taking Aquatic Wildlife
- R12-4-315. Possession of Live Fish; Unattended Live Boxes and Stringers
- R12-4-316. Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs
- R12-4-317. Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles
- R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles
- R12-4-319. Use of Aircraft to Take Wildlife
- R12-4-320. Harassment of Wildlife
- R12-4-322. Pickup and Possession of Wildlife Carcasses or Parts

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

**R12-4-101. Definitions**

- A. In addition to the definitions provided in under A.R.S. § 17-101, R12-4-301, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless ~~the context~~ otherwise requires specified:
1. ~~“Artificial lures and flies” means man-made devices intended as visual attractants for fish and does not include living or dead organisms or edible parts of those organisms, natural or prepared food stuffs, artificial salmon eggs, artificial corn, or artificial marshmallows.~~
  2. “Bonus point” means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.
  3. “Commission Order” means a document adopted by the Commission that does ~~any or all one or more~~ of the following: ~~open, close, or alter seasons and open areas for taking wildlife; specify wildlife that may or may not be taken; set bag or possession limits for wildlife; or set the number of permits available for limited hunts~~  
Open, close, or alter seasons;  
Open areas for taking wildlife;  
Set bag or possession limits for wildlife;  
Set the number of permits available for limited hunts; or  
Specify wildlife that may or may not be taken.
  4. ~~“Crayfish net” means a net that does not exceed 36 inches on a side or in diameter and is retrieved by means of a hand-held line.~~  
“Day-long” means the 24-hour period from midnight to midnight.  
“Firearm” means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon that will discharge, is designed to discharge or may readily be converted to discharge a projectile by the action of an explosion caused by the burning of smokeless powder, black powder, or black powder substitute.
  5. “Hunt area” means a game management unit, portion of a unit, or group of units, or any portion of Arizona described in a Commission Order and not included in a game management unit, opened to hunting by a particular hunt number.
  6. “Hunt number” means the number assigned by Commission Order to any hunt area where a limited number of hunt permits ~~is~~ are available.
  7. “Hunt permits” means the number of hunt permit-tags made available to the public as a result of a Commission Order.
  8. “Hunt permit-tag” means a tag for a hunt for which a Commission Order has assigned a hunt number.
  9. “Identification number” means ~~a~~ the number assigned to each applicant or license holder by the Department, as ~~pre-~~ scribed in established under R12-4-111.
  10. “License dealer” means a business authorized to sell hunting, fishing, and other licenses as established under R12-4-105.
  11. “Live baitfish” means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-317.
  12. “Management unit” means an area established by the Commission for management purposes.

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13. ~~“Minnow trap” means a trap with dimensions that do not exceed 12 inches in depth, 12 inches in width and 24 inches in length.~~
  14. ~~“Muzzle loading handgun” means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.~~
  15. ~~“Muzzle loading rifle” means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.~~
  16. “Nonpermit-tag” means a tag for a hunt for which a Commission Order does not assign a hunt number and the number of tags is not limited.
  17. “Restricted nonpermit-tag” means a tag issued for a supplemental hunt as established under R12-4-115.
  18. ~~“Simultaneous fishing” means taking fish by using two lines and not more than two hooks or two artificial lures or flies per line.~~
  19. ~~“Sink box” means a low floating device with a depression that affords a hunter a means of concealment beneath the surface of the water.~~
  20. “Stamp” means a form of authorization in addition to a license that allows the license holder to take wildlife specified by the stamp. ~~The Department shall issue a stamp by one of the following methods:~~
    - a. ~~Print the name of the stamp on the applicable license;~~
    - b. ~~Print the name of the stamp on a separate license form that the license holder shall attach to or carry with the applicable license; or~~
    - e. ~~Provide an actual stamp with an adhesive backing that the license holder shall affix to the back of the applicable license and signs across the face of the stamp.~~
  21. “Tag” means the Department authorization that an individual is required to obtain ~~from the Department under A.R.S. Title 17 and 12 A.A.C. 4~~ before taking certain wildlife as established under A.R.S. Title 17 and 12 A.A.C. 4.
  22. “Waterdog” means the larval or metamorphosing stage of salamanders.
  23. “Wildlife area” means an area established under 12 A.A.C. 4, Article 8.
- B.** If the following terms are used in a Commission Order, the following definitions apply:
1. “Antlered” means having an antler fully erupted through the skin and capable of being shed.
  2. “Antlerless” means not having an antler, antlers, or any part ~~thereof~~ of an antler erupted through the skin.
  3. “Bearded turkey” means a turkey with a beard that extends beyond the contour feathers of the breast.
  4. “Buck antelope” means a male pronghorn antelope.
  5. “Bull elk” means an antlered elk.
  6. “Designated” means the gender, age, or species of an animal or the specifically identified animal the Department authorizes to be taken and possessed with a valid tag.
  7. “Ram” means any male bighorn sheep, excluding male lambs.

**ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**

**R12-4-301. Definitions**

In addition to the definitions provided under A.R.S. § 17-101, the following definitions apply to this Article unless otherwise specified:

“Administer” means to pursue, capture, or otherwise restrain wildlife in order to directly apply a drug to wildlife by injection, inhalation, ingestion or any other means.

“Aircraft” means any contrivance used for flight in the air or any lighter-than-air contrivance.

“Artificial lures and flies” means man-made devices intended as visual attractants for fish and does not include living or dead organisms or edible parts of those organisms, natural or prepared food stuffs, artificial salmon eggs, artificial corn, or artificial marshmallows.

“Barbless hook” means any fishhook manufactured without barbs or on which the barbs have been completely closed or removed.

“Body-gripping trap” means a device designed to capture an animal by gripping the animal's body.

“Cervid” means any member of the deer family (*Cervidae*); which includes caribou, elk, moose, mule deer, reindeer, wapiti, and whitetail deer.

“Confinement trap” means a device designed to capture wildlife alive and hold it without harm.

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“Crayfish net” means a net that does not exceed 36 inches on a side or in diameter and is retrieved by means of a hand-held line.

“Dip net” means any net, excluding the handle, that is no greater than 3 feet in the greatest dimension, ~~that is~~ hand-held, ~~and~~ non-motorized, and the motion of the net is caused by the physical effort of the individual.

“Drug” means any chemical substance, other than food or mineral supplements, which affects the structure or biological function of wildlife.

“Evidence of legality” means the wildlife is accompanied by the applicable license, tag, stamp, or permit required by law and is identifiable as the “legal wildlife” prescribed by Commission Order, which may include evidence of species, gender, antler or horn growth, maturity and size.

“Foothold trap” means a device designed to capture an animal by the leg or foot.

“Instant kill trap” means a device designed to render an animal unconscious and insensitive to pain quickly with inevitable subsidence into death without recovery of consciousness.

“Land set” means any trap used on land rather than in water.

“Minnow trap” means a trap with dimensions that do not exceed 12 inches in depth, 12 inches in width and 24 inches in length.

“Muzzleloading handgun” means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.

“Muzzleloading rifle” means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.

“Nonprofit organization” means an organization that is recognized as nonprofit under Section 501(c) of the U.S. Internal Revenue Code.

“Paste-type bait” means a partially liquefied substance used as a lure for animals.

“Person” means any individual, corporation, partnership, limited liability company, non-governmental organization or club, licensed animal shelter, government entity other than the Department, and any officer, employee, volunteer, member or agent of a person.

“Pre-charged pneumatic weapon” means an air gun or pneumatic weapon that is charged from an external high compression source such as an air compressor, air tank, or external hand pump.

“Sight-exposed bait” means a carcass or parts of a carcass lying openly on the ground or suspended in a manner so that it can be seen from above by a bird. This does not include a trap flag, dried or bleached bone with no attached tissue, or less than two ounces of paste-type bait.

“Simultaneous fishing” means taking fish by using two lines and not more than two hooks or two artificial lures or flies per line.

“Sinkbox” means a low floating device with a depression that affords a hunter a means of concealment beneath the surface of the water.

“Trap flag” means an attractant made from materials other than animal parts that is suspended at least three feet above the ground.

“Water set” means any trap used and anchored in water rather than on land.

**R12-4-302. Use of Tags**

- A.** In addition to meeting the requirements of prescribed under A.R.S. § 17-331, an individual who takes wildlife shall have in possession any tag required for the particular season or hunt area.
- B.** A tag obtained in violation of statute or rule is invalid and shall not be used to take, transport, or possess wildlife.
- ~~**C.** An individual who takes wildlife shall not possess a tag issued to anyone else, except as provided in this Section and R12-4-305, or attach to wildlife a tag issued to anyone else, except as provided in R12-4-217.~~
- ~~**D.** An individual shall not allow a tag issued to that individual to be attached to wildlife killed by anyone else, except as provided in R12-4-217.~~
- ~~**E.** An individual shall not attach a tag issued to that individual to wildlife killed by anyone else, except as provided in R12-4-217.~~
- ~~**F.** An individual shall take and tag only the wildlife identified on the tag.~~
- ~~**G.** An individual shall use a tag only in the season and hunt area for which the tag is valid.~~
- ~~**H-C.** An individual who lawfully possesses both a nonpermit-tag and a hunt permit-tag shall not take a genus or species in excess of the bag limit established by Commission Order for that genus or species.~~
- D.** An individual shall:

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1. Take and tag only the wildlife identified on the tag; and
  2. Use a tag only in the season and hunt for which the tag is valid, as specified by Commission Order.
- E.** Except as permitted under R12-4-217, an individual shall not:
1. Allow their tag to be attached to wildlife killed by another individual.
  2. Allow their tag to be possessed by another individual.
  3. Attach their tag to wildlife killed by another individual.
  4. Attach a tag issued to another individual to wildlife, or
  5. Possess a tag issued to another individual.
- I.F.** ~~Immediately~~ Except as permitted under R12-4-217, immediately after an individual kills wildlife, ~~unless exempted under R12-4-217 or the individual who took the wildlife wishes to divide the carcass under R12-4-305, the individual shall attach his or her valid~~ the tag to the wildlife carcass in the following manner:
1. Remove all of the detachable paper covering from the adhesive back of the tag;
  2. Seal the exposed adhesive portions of the tag around the wildlife so the tag cannot be removed or reused and all printing on the face of the tag is visible, and
    - a. For a ~~antelope, deer, or elk, or antelope;~~ seal the tag around the antler or horn, or through the gambrel of a hind leg;
    - b. For a ~~javelina, bighorn sheep, mountain lion, buffalo, or bear, bighorn sheep, buffalo, javelina, or mountain lion;~~ seal the tag through the gambrel of a hind leg; and
    - c. For a ~~turkey, sandhill crane, or pheasant, sandhill crane, or turkey;~~ seal the tag around the neck or a leg.
- J.** ~~An individual who lawfully takes wildlife under a tag and wishes to authorize another individual to possess, transport, or ship any portion of a carcass under R12-4-305 shall, at the time the portions are to be possessed, transported, or shipped independent from the original tag holder:~~
1. ~~Tear and separate the tag portions along the perforated line;~~
  2. ~~Legibly complete and sign the Carcass/Transportation/Shipping Permit portion in accordance with R12-4-305(D), and~~
  3. ~~Provide to the individual who will possess and transport the portions of the carcass the completed Carcass/Transportation/Shipping permit.~~
- K.G.** ~~An individual who possesses, transports, or ships a carcass or any part or parts of a carcass and is not the original tag holder shall possess the completed Carcass/Transportation/Shipping permit issued as part of the original permit authorizing the take of that animal~~ An individual who lawfully takes wildlife with a valid tag and authorizes another individual to possess, transport, or ship the tagged portion of the carcass shall complete the Transportation and Shipping Permit portion of the original tag authorizing the take of that animal.
- L.H.** ~~If a tag or a separated portion of a tag has been sealed or mutilated, or the Carcass/Transportation/Shipping permit portion of the tag is signed or filled out, the tag is no longer valid for taking wildlife~~ If a tag is sealed or mutilated or the Transportation and Shipping Permit portion of the tag is signed or filled out, the tag is no longer valid for the take of wildlife.

**R12-4-303. Unlawful Devices, Methods, and Ammunition**

- A.** In addition to the prohibitions prescribed ~~in~~ under A.R.S. §§ 17-301 and 17-309, the following devices, methods, and ammunition are unlawful for taking any wildlife in this state:;
1. An individual shall not use ~~or possess~~ any of the following while taking to take wildlife:
    - 1-a. Fully automatic firearms, including firearms capable of selective automatic fire; or
    - 2-b. Tracer, armor-piercing, or full-jacketed ammunition designed for military use; ;
  3. ~~Shotguns larger than 10 gauge or shotguns capable of holding more than five shells in the magazine, unless plugged with a one-piece filler that cannot be removed without disassembling the gun, and that limits the magazine capacity to five shells;~~
  4. ~~Semiautomatic centerfire rifles with a magazine capacity of more than five cartridges, unless the magazine is modified with a filler or stop that cannot be removed without disassembling the magazine;~~
  5. ~~Contrivances designed to silence, muffle, or minimize the report of a firearm;~~
  6. ~~Poisoned projectiles, or projectiles that contain explosives; or~~
  7. ~~Pitfalls of greater than 5-gallon size, explosives, poisons, or stupefying substances, except as permitted in A.R.S. § 17-239, or as allowed by a scientific collecting permit issued under A.R.S. § 17-238.~~
  2. An individual shall not use or possess any of the following while taking wildlife:
    - a. Poisoned projectiles or projectiles that contain explosives;
    - b. Pitfalls of greater than 5-gallon size, explosives, poisons, or stupefying substances, except as permitted under A.R.S. § 17-239 or as allowed by a scientific collecting permit issued under A.R.S. § 17-238;
    - c. Any lure, attractant, or cover scent containing any cervid urine; or
    - d. Electronic night vision equipment, electronically enhanced light-gathering devices, thermal imaging devices or laser sights; except for devices such as laser range finders, scopes with self-illuminating reticles, and fiber optic sights with self-illuminating sights or pins that do not project a visible light onto an animal.

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3. An individual shall not:
    - a. Hold wildlife at bay other than during daylight hours, unless authorized by Commission Order.
    - b. Injure, confine, or place a tracking device in or on wildlife for the purpose of aiding another individual to take wildlife.
    - c. Place any substance, device, or object in, on, or by any water source to prevent wildlife from using that water source.
    - d. Place any substance in a manner intended to attract bears.
    - e. Use a manual or powered jacking or prying device to take reptiles or amphibians.
    - f. Use dogs to pursue, tree, corner or hold at bay any wildlife for a hunter unless that hunter is present for the entire hunt.
    - g. Take migratory game birds, except Eurasian Collared-doves, using a shotgun larger than 10 gauge, a shotgun of any description capable of holding more than three shells unless it is plugged with a one-piece filler that cannot be removed without disassembling the shotgun so that its total capacity does not exceed three shells, electronically amplified bird calls, or baits, as prohibited under 50 CFR 20.21, revised October 1, 2009. The material incorporated by reference in this Section does not include any later amendments or editions. The incorporated material is available at any Department office, online from the Government Printing Office web site [www.gpoaccess.gov](http://www.gpoaccess.gov), or may be ordered from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol St. N.W., Stop IDCC, Washington, D.C. 20401.
    - h. Discharge a pneumatic weapon .30 caliber or larger while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident.
  4. An individual shall not use edible or ingestible substances to aid in taking big game. The use of edible or ingestible substances to aid in taking big game is unlawful when:
    - a. An individual places edible or ingestible substances for the purpose of attracting or taking big game, or
    - b. An individual knowingly takes big game with the aid of edible or ingestible substances placed for the purpose of attracting wildlife to a specific location.
  5. Subsection (A)(4) does not limit Department employees or Department agents in the performance of their official duties.
  6. For the purposes of subsection (A)(4), edible or ingestible substances do not include any of the following:
    - a. Water.
    - b. Salt.
    - c. Salt-based materials produced and manufactured for the livestock industry.
    - d. Nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations.
- ~~B.~~ An individual shall not place any substance in a manner intended to attract bears.
- ~~C.~~ An individual shall not use manual or powered jacking or prying devices to take reptiles or amphibians.
- ~~D.~~ An individual shall not use live decoys, recorded bird calls, electronically amplified bird calls, or baits to take migratory game birds, as prohibited by 50 CFR 20.21, revised June 14, 2001. This material is incorporated by reference in this Section, but does not include any later amendments or editions. A copy is available from any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
- ~~B.~~ Wildlife taken in violation of this Section is unlawfully taken.
- ~~C.~~ This Section does not apply to any activity allowed under A.R.S. § 17-302, to an individual acting within the scope of their official duties as an employee of the state or United States, or as authorized by the Department.

**R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles**

- A. An individual may only use the following methods to take big game; when authorized by Commission Order and subject to the restrictions under R12-4-303 and R12-4-318.
  1. To take antelope:
    - a. Centerfire rifles;
    - b. Muzzleloading rifles;
    - c. All other rifles using black powder or synthetic black powder;
    - d. Centerfire handguns;
    - e. Handguns using black powder or synthetic black powder;
    - f. Shotguns shooting slugs, only;
    - g. Pre-charged pneumatic weapons .35 caliber or larger;
    - ~~g-h.~~ Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
    - ~~h-i.~~ Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(1)(g) (A)(1)(h) to be drawn and held with an assisting device.
  2. To take bear:

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- a. Centerfire rifles;
  - b. Muzzleloading rifles;
  - c. All other rifles using black powder or synthetic black powder;
  - d. Centerfire handguns;
  - e. Handguns using black powder or synthetic black powder;
  - f. Shotguns shooting slugs, only;
  - g. Pre-charged pneumatic weapons .35 caliber or larger;
  - ~~g-h.~~ Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges;
  - ~~h-i.~~ Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection ~~(A)(2)(g)~~ (A)(2)(h) to be drawn and held with an assisting device; and
  - ~~i-j.~~ Pursuit with dogs only between August 1 and December 31, ~~only provided the individual shall immediately kill or release the bear after it is treed, cornered, or held at bay. For the purpose of this subsection, "release" means the individual removes the dogs from the area so the bear can escape on its own after it is treed, cornered, or held at bay.~~
3. To take bighorn sheep:
- a. Centerfire rifles;
  - b. Muzzleloading rifles;
  - c. All other rifles using black powder or synthetic black powder;
  - d. Centerfire handguns;
  - e. Handguns using black powder or synthetic black powder;
  - f. Shotguns shooting slugs, only;
  - g. Pre-charged pneumatic weapons .35 caliber or larger;
  - ~~g-h.~~ Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
  - ~~h-i.~~ Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection ~~(A)(3)(g)~~ (A)(3)(h) to be drawn and held with an assisting device.
4. To take buffalo:
- a. State-wide, except for the game management units identified under subsection (A)(4)(b):
    - i. Centerfire rifles;
    - ii. Muzzleloading rifles;
    - iii. All other rifles using black powder or synthetic black powder;
    - iv. Centerfire handguns no less than .41 Magnum or centerfire handguns with an overall cartridge length of no less than two inches;
    - v. Bows with a standard pull of 40 or more lbs, using arrows with broadheads of no less than 7/8 inch in width with metal cutting edges; and
    - vi. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(4)(a)(v) to be drawn and held with an assisting device.
  - b. In game management units 5A and 5B:
    - i. Centerfire rifles,
    - ii. Muzzleloading rifles, and
    - iii. All other rifles using black powder or synthetic black powder.
5. To take deer:
- a. Centerfire rifles;
  - b. Muzzleloading rifles;
  - c. All other rifles using black powder or synthetic black powder;
  - d. Centerfire handguns;
  - e. Handguns using black powder or synthetic black powder;
  - f. Shotguns shooting slugs, only;
  - g. Pre-charged pneumatic weapons .35 caliber or larger;
  - ~~g-h.~~ Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
  - ~~h-i.~~ Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection ~~(A)(5)(g)~~ (A)(5)(h) to be drawn and held with an assisting device.
6. To take elk:

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- a. Centerfire rifles;
  - b. Muzzleloading rifles;
  - c. All other rifles using black powder or synthetic black powder;
  - d. Centerfire handguns;
  - e. Handguns using black powder or synthetic black powder;
  - f. Shotguns shooting slugs, only;
  - g. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
  - h. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(6)(g) to be drawn and held with an assisting device.
7. To take javelina:
- a. Centerfire rifles;
  - b. Muzzleloading rifles;
  - c. All other rifles using black powder or synthetic black powder;
  - d. Centerfire handguns;
  - e. Handguns using black powder or synthetic black powder;
  - f. Shotguns shooting slugs, only;
  - g. Pre-charged pneumatic weapons .35 caliber or larger;
  - ~~g-h.~~ Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges;
  - ~~h-i.~~ Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection ~~(A)(7)(g)~~ (A)(7)(h) to be drawn and held with an assisting device;
  - ~~i-j.~~ .22 rimfire magnum rifles; and
  - ~~j-k.~~ 5 mm rimfire magnum rifles.
8. To take mountain lion:
- a. Centerfire rifles;
  - b. Muzzleloading rifles;
  - c. All other rifles using black powder or synthetic black powder;
  - d. Centerfire handguns;
  - e. Handguns using black powder or synthetic black powder;
  - f. Shotguns shooting slugs or shot;
  - g. Pre-charged pneumatic weapons .35 caliber or larger;
  - ~~g-h.~~ Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges;
  - ~~h-i.~~ Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection ~~(A)(8)(g)~~ (A)(8)(h) to be drawn and held with an assisting device;
  - ~~i-j.~~ Artificial light, during seasons with ~~day-long~~ day-long hours, provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail; and
  - ~~j-k.~~ Pursuit with dogs, provided the individual shall immediately kill or release the mountain lion after it is treed, cornered, or held at bay. For the purpose of this subsection, "release" means the individual removes the dogs from the area so the mountain lion can escape on its own after it is treed, cornered, or held at bay.
9. To take turkey:
- ~~a.~~ Centerfire rifles;
  - ~~b.~~ Muzzleloading rifles;
  - ~~c.~~ All other rifles using black powder or synthetic black powder;
  - ~~d.~~ Centerfire handguns;
  - ~~e.~~ Handguns using black powder or synthetic black powder;
  - ~~f-a.~~ Shotguns shooting slugs or shot;
  - ~~g-b.~~ Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and
  - ~~h-c.~~ Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection ~~(A)(9)(g)~~ (A)(9)(b) to be drawn and held with an assisting device;
  - ~~i.~~ .22 rimfire magnum rifles;
  - ~~j.~~ 5 mm rimfire magnum rifles; and

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- ~~k. .17 rimfire magnum rifles.~~
- B. An individual may only use the following methods to take small game, when authorized by Commission Order and subject to the restrictions under R12-4-303 and R12-4-318.
1. To take cottontail rabbits and tree squirrels:
    - a. Firearms,
    - b. Bow and arrow,
    - c. Crossbow,
    - d. Pneumatic weapons,
    - e. Slingshots,
    - f. Hand-held projectiles,
    - g. Falconry, and
    - h. Dogs.
  2. To take all upland game birds and Eurasian Collared-doves:
    - a. Bow and arrow;
    - b. Falconry;
    - c. Pneumatic weapons;
    - d. Shotguns shooting shot, only;
    - e. Handguns shooting shot, only;
    - f. Crossbow;
    - g. Slingshot;
    - ~~g-h.~~ Hand-held projectiles; and
    - ~~h-i.~~ Dogs.
  3. To take migratory game birds, except Eurasian Collared-doves:
    - a. Bow and arrow;
    - b. Crossbow;
    - c. Falconry;
    - d. Dogs;
    - ~~d-e.~~ Shotguns shooting shot;
      - i. Ten gauge or smaller, except that lead shot shall not be used or possessed while taking ducks, geese, swans, mergansers, common moorhens, or coots; and
      - e-ii. ~~Shotguns shooting shot and incapable~~ Incapable of holding more than ~~two~~ a total of three shells in the magazine, unless plugged with a one-piece filler that cannot be removed without disassembling the gun that limits the magazine capacity to two shells; and, as prescribed under 50 CFR 20.21, published October 1, 2009. The material incorporated by reference in this subsection does not include any later amendments or editions. The material is available at any Department office, online from the Government Printing Office web site www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol St. N.W., Stop: IDCC, Washington, D.C. 20401.
    - f. ~~Dogs.~~
- C. An individual may take waterfowl from a any watercraft, except a sinkbox, subject to the following conditions:
1. The motor is shut off, if any, ~~is shut off~~; the sail is furled, if any as applicable ~~is furled~~, and any progress from a motor or sail has ceased;
  2. The watercraft may be ~~drifting as a result of current or wind action; may be beached, moored, or resting at anchor; or may be propelled by paddle, oars, or pole; and;~~
    - a. Adrift as a result of current or wind action;
    - b. Beached;
    - c. Moored;
    - d. Resting at anchor; or
    - e. Propelled by paddle, oars, or pole; and
  3. The individual may only use the watercraft under power to retrieve dead or crippled waterfowl, ~~but no~~ shooting is permitted ~~prohibited~~ while the watercraft is underway.
- D. An individual may take predatory and furbearing animals by using the following methods, when authorized by Commission Order and subject to the restrictions under R12-4-303 and R12-4-318:
1. Firearms;
  2. Pre-charged pneumatic weapons .25 caliber or larger;
  - ~~2-3.~~ Bow and arrow;
  - ~~3-4.~~ Crossbow;
  - ~~4-5.~~ Traps not prohibited under R12-4-307;
  - ~~5-6.~~ Artificial light while taking raccoon provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft ~~under sail; and~~

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~~6.7.~~ Artificial light while taking coyote during seasons with ~~day-long~~ day-long hours, provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail; and

~~7.8.~~ Dogs.

E. An individual may take nongame mammals and birds by any method authorized by Commission Order and not prohibited under R12-4-303 or R12-4-318, subject to the following restrictions. An individual:

1. Shall not take nongame mammals and birds using foothold traps;
2. Shall check pitfall traps of any size daily, release non-target species, remove pitfalls when no longer in use, and fill any holes;
3. Shall not use firearms at night; and
4. May use artificial light while taking nongame mammals and birds, if the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail.

F. An individual may take reptiles by any method not prohibited under R12-4-303 or R12-4-318 subject to the following restrictions. An individual:

1. Shall check pitfall traps of any size daily, release non-target species, remove pitfalls when no longer in use, and fill any holes;
2. Shall not use firearms at night; and
3. May use artificial light while taking reptiles provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail.

G. ~~For the purposes of Commission Orders authorized under this Section, "day-long" means the 24-hour period from midnight to midnight.~~

**R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife**

~~A.~~ For the purposes of this Section, "evidence of legality" means:

1. ~~The wildlife is identifiable as the "legal wildlife" prescribed by Commission order, which may include evidence of species, gender, antler or horn growth, maturity and size; and~~
2. ~~The wildlife is accompanied by the applicable license, tag, separated portion of a tag under R12-4-302, stamp or permit required by law.~~

~~B.A.~~ An individual shall ensure that evidence of legality remains with the carcass or parts of a carcass of any wild mammal, bird, or reptile that the individual possesses ~~or~~, transports, or imports until arrival at the individual's permanent abode, a commercial processing plant, or the place where the wildlife is to be consumed.

~~C.B.~~ In addition to the requirement in subsection ~~(B)~~ (A), an individual possessing or transporting the following wildlife shall ~~also ensure that each:~~

1. Big game animal, sandhill ~~cranes~~ crane, and pheasant ~~each have~~ has the required valid tag attached as prescribed ~~in~~ under R12-4-302;
2. Migratory game ~~birds~~ bird, except sandhill cranes, ~~each have~~ has one fully feathered wing attached;
3. ~~Each sandhill~~ Sandhill crane has either the fully feathered head or one fully feathered wing attached; and
4. ~~Each quail~~ Quail has attached a fully feathered head, or a fully feathered wing, or a leg with foot attached, ~~if when~~ when the current Commission ~~order~~ Order has established separate bag or possession limits for any species of quail.

~~D.C.~~ An individual who has lawfully taken wildlife that requires a valid tag when prescribed by the Commission, ~~such as big game, sandhill crane, or pheasant,~~ may authorize its transportation or shipment by completing and signing the ~~Transportation/Shipping~~ Transportation and Shipping Permit portion of the valid tag for that animal. A separate ~~Transportation/Shipping~~ Transportation and Shipping Permit issued by the Department is necessary to transport or ship to another state or country any big game taken with a resident license. Under A.R.S. § ~~17-372~~ 17-372(B), an individual may ship other lawfully taken wildlife by common carrier after obtaining a valid ~~Transportation/Shipping~~ Transportation and Shipping Permit issued by the Department. The individual shall provide the following information on the permit form:

1. Number and description of the wildlife to be transported or shipped;
2. Name, address, license number, and license class of the individual who took the wildlife ~~and that individual's address, license number, license class, and tag number;~~
3. Tag number;
- ~~3.4.~~ Name and address of the individual who receives receiving a portion of the ~~divided~~ carcass of the wildlife as authorized under subsection ~~(E)~~ (D), if applicable;
- ~~4.5.~~ Address of destination where the wildlife is to be transported or shipped; and
- ~~5.6.~~ Name and address of transporter or shipper.

~~E.D.~~ An individual who lawfully takes wildlife under a tag may authorize another individual to possess the head or carcass of the wildlife by separating and attaching the tag as prescribed ~~in~~ under R12-4-302.

E. An individual who receives a portion of the wildlife shall provide the identity of the individual who took and gave the portion of the wildlife.

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- F. An individual shall not possess the horns of a bighorn sheep, taken by a hunter in this state, unless the horns are marked or sealed as prescribed ~~in~~ under R12-4-308.
- G. An individual who sells, offers for sale, or exports the raw pelt of a bobcat taken in this state shall obtain a bobcat permit tag available for a fee as provided in R12-4-102 at Department offices and other locations at those times and places as determined and published by the Department, and shall ensure that the bobcat permit tag is locked through the mouth or eye openings so that it cannot be removed. Except as provided under R12-4-307, before an individual may sell, offer for sale, or export the raw pelt or unskinned carcass of a bobcat taken in this state the individual shall:
  1. Present the bobcat for inspection at any Department office, and
  2. Purchase a bobcat seal by paying the fee established under R12-4-102 at any Department office or other location as determined and published by the Department. Department personnel or an authorized agent shall attach and lock the bobcat seal only to a pelt or unskinned carcass presented with a validated transportation tag.
- H. ~~Unless an individual has taken the annual bag limit for bear or mountain lion, an~~ An individual who takes bear or mountain lion under A.R.S. § 17-302, if the season for bear or mountain lion is closed, during a closed season may retain the carcass of the wildlife if the individual has a valid hunting license and the carcass is immediately tagged with a nonpermit-tag as required by under R12-4-114 and R12-4-302, unless the individual has already taken the applicable bag limit for that big game animal. An animal retained under this subsection shall count towards the annual applicable bag limit for bear or mountain lion as authorized in by Commission Order. The individual shall comply with inspection and reporting requirements established under R12-4-308.
- I. An individual may ~~import into this state carcasses or parts of carcasses of wildlife that have been~~ possess, transport, or import only the following portions of a cervid lawfully taken in another state or country if accompanied by evidence of legality:
  1. Boneless portions of meat, or meat that has been cut and packaged;
  2. Clean hides and capes with no skull or soft tissue attached, except as required for proof of legality;
  3. Clean skulls with antlers, clean skull plates, or antlers with no meat or soft tissue attached;
  4. Finished taxidermy mounts or products; and
  5. Upper canine teeth with no meat or tissue attached.
- J. A private game farm license holder may transport a cervid lawfully killed or slaughtered at the license holder's game farm to a licensed meat processor.
- K. An individual may possess or transport only the following portions of a cervid lawfully killed or slaughtered at a private game farm authorized under R12-4-413:
  1. Boneless portions of meat, or meat that has been cut and packaged;
  2. Clean hides and capes with no skull or soft tissue attached;
  3. Clean skulls with antlers, clean skull plates, or antlers with no meat or soft tissue attached;
  4. Finished taxidermy mounts or products; and
  5. Upper canine teeth with no meat or tissue attached.
- ~~J.L.~~ An individual who obtains buffalo meat as authorized under R12-4-306 may sell the meat.
- ~~K.M.~~ Except for cervids, which are subject to requirements established under subsections (I), (J), and (K), An an individual may import into this state the carcasses or parts of wildlife, including aquatic wildlife, that have been lawfully taken in another state or country if accompanied by evidence of legality, and if transported and exported in accordance with the laws of the state or country of origin.
- ~~L.N.~~ An individual in possession of or transporting the carcasses carcass of any freshwater fish that have been taken within this state shall ensure that the head, tail, or skin is attached so that the species can be identified, numbers counted, and any required length determined.
- O. An individual shall not transport live crayfish from the site where taken, except as permitted under R12-4-316.
- ~~M.P.~~ An individual in possession of a carp (*Cyprinus carpio*) or, buffalofish (*Ictiobus* spp.), or crayfish (families *Astacidae*, *Cambaridae*, and *Parastacidae*) carcass taken under Commission ~~order~~ Order may sell the carcass.

**R12-4-306. Buffalo Hunt Requirements**

- A. When authorized by Commission ~~order~~ Order, the Department shall conduct a hunt to harvest buffalo from the state's buffalo herds.
- B. ~~An unsuccessful hunter with a buffalo hunt permit tag for the House Rock Wildlife Area herd shall check out in person or by telephone at either the Department's Flagstaff regional office or the House Rock Wildlife Area headquarters within three days following the close of the season. A successful buffalo hunter shall report information about the kill to the Department within five business days after taking the buffalo either in person at the House Rock Wildlife Area headquarters or in person or by telephone at the Department's Flagstaff regional office. If the kill is reported by telephone, the report shall include the name of the hunter, the hunter's tag number, the sex of the buffalo taken, the number of days hunted, and a telephone number where the hunter can be reached for additional information.~~
- C. ~~A hunter with a buffalo hunt permit tag for the Raymond Wildlife Area herd shall hunt in the order scheduled by the Department.~~
- D. ~~A hunter with buffalo hunt permit tag for the Raymond Wildlife Area herd shall be accompanied by an authorized Depart-~~

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~~ment employee who shall designate the animal to be harvested.~~

- B.** A hunter with a buffalo permit-tag or nonpermit-tag shall:
1. Provide a signed written acknowledgment that the hunter received, read, understands, and agrees to comply with the requirements of this Section.
  2. Be accompanied by an authorized Department employee, when required, and
  3. Take only the buffalo designated by the Department employee, when required.
- C.** For the House Rock Herd (Units 12A, 12B, and 13A): when required by the Department, a hunter with a nonpermit-tag shall:
1. Hunt in the order scheduled.
  2. Be accompanied by a Department employee who:
    - a. Shall designate the buffalo to be harvested, and
    - b. May assist in taking the buffalo if the hunter fails to dispatch a wounded buffalo within a reasonable period.
- D.** For the Raymond Herd (Units 5A and 5B):
1. A hunter with a permit-tag shall:
    - a. Hunt in the order scheduled, and
    - b. Be accompanied by an authorized Department employee who:
      - i. Shall designate the buffalo to be harvested, and
      - ii. May assist in taking the buffalo if the hunter fails to dispatch a wounded buffalo within a reasonable period.
  2. When required by the Department, a hunter with a nonpermit-tag shall:
    - a. Hunt in the order scheduled.
    - b. Be accompanied by a Department employee who:
      - i. Shall designate the buffalo to be harvested.
      - ii. May assist in taking the buffalo if the hunter fails to dispatch a wounded buffalo within a reasonable period.
- E.** A hunter issued a buffalo permit-tag or non-permit tag shall check out no more than three days after the end of the hunt, regardless of whether the hunter was successful, unsuccessful, or did not participate in a buffalo hunt.
1. House Rock Herd (Units 12A, 12B, and 13A): a hunter may check out either in person or by telephone at the House Rock Wildlife Area headquarters, the Jacob Lake Check station when open during deer season, or the Department's Flagstaff regional office.
  2. Raymond Herd (Units 5A and 5B):
    - a. A successful hunter shall check out in person at the Raymond Wildlife Area headquarters or the Department's Flagstaff regional office. The hunter shall present the buffalo to the Department for the purpose of gathering biological data.
    - b. An unsuccessful hunter shall check out by telephone at the Raymond Wildlife Area headquarters or the Department's Flagstaff regional office.
  3. At the time of check-out, the hunter shall provide all of the following information:
    - a. Hunter's name.
    - b. Hunter's contact number.
    - c. Tag number.
    - d. Sex of buffalo taken.
    - e. Age of the buffalo taken: adult or yearling.
    - f. Number of days hunted, and
    - g. Number of buffalo seen while hunting.
  4. When accompanied by an authorized Department employee, the employee shall conduct the check-out at the end of the hunt.
- F.** Failure to comply with the requirements of this Section shall result in the invalidation of the hunter's permit-tag or nonpermit-tag, consistent with the written acknowledgment signed and agreed to by the hunter.

**R12-4-307. Trapping Regulations: Licensing; Methods; Tagging of Bobcat Pelts**

- A.** For the purposes of this Section, the following definitions apply:
1. "Body-gripping trap" means a device designed to capture an animal by gripping the animal's body.
  2. "Confinement trap" means a device designed to capture wildlife alive and hold it without harm.
  3. "Instant kill trap" means a device designed to render an animal unconscious and insensitive to pain quickly with inevitable subsidence into death without recovery of consciousness.
  4. "Land set" means any trap used on land rather than in water.
  5. "Leghold trap" means a device designed to capture an animal by the leg or foot.
  6. "Paste-type bait" means a partially liquefied substance intended for use as a lure for animals.
  7. "Sight-exposed bait" means a carcass or parts of a carcass lying openly on the ground or suspended in a manner so that it can be seen from above by a bird. This does not include dried or bleached bones with no attached tissue or less than two ounces of paste-type baits or trap flags.
  8. "Trap flag" means an attractant made from materials other than animal parts that is suspended at least three feet above

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the ground.

9. "Water set" means any trap used and anchored in water rather than on land.

- B.** A valid trapping license is required for an individual 14 years of age or older for trapping predatory and fur-bearing animals. An individual born on or after January 1, 1967 shall successfully complete a Department-approved trapping education course to obtain a trapping license. Traps may be used to take predatory and fur-bearing animals only during the trapping season established by Commission order.
- C.** All trappers shall inspect their traps daily and kill or release all predatory and fur-bearing animals. All trappers shall release without additional injury all animals that cannot lawfully be taken by trap. While in the field, all trappers shall possess a device that is designed or manufactured to restrain trapped animals so that a trapped animal can be removed from a trap when its release is required by this Section. All trappers, in units designated by Commission order as javelina hunt units, shall possess a choke restraint device that enables the trapper to release a javelina from a trap.
- D.** An individual shall not:
  - 1. Set a trap within 1/2 mile of any of the following areas developed for public use: a boat launching area, picnic area, camping area, or roadside rest area;
  - 2. Set a trap, other than a confinement trap, within 1/2 mile of any occupied residence or building without permission of the owner or resident;
  - 3. Set a trap, other than a confinement trap, within 100 yards of an interstate highway or any other highway maintained by the Arizona Department of Transportation, within 25 yards of any other road as defined by A.R.S. § 17-101, or within 50 feet of any trail maintained for public use by a government agency;
  - 4. Set a leghold trap within 30 feet of a sight-exposed bait;
  - 5. Bait a confinement trap with live animals or portions of game mammals, big game, small game, upland game birds, migratory game birds, or game fish, or use bait with a confinement trap that is not wholly contained within the confinement trap;
  - 6. Use any trap with teeth;
  - 7. Use any snare;
  - 8. Use any trap with an open jaw spread that exceeds 6 1/2 inches for any land set;
  - 9. Use a body-gripping or other instant kill trap with an open jaw spread that exceeds five inches for any land set;
  - 10. Use a leghold trap with an open jaw spread that exceeds 7 1/2 inches for any water set; or
  - 11. Use a body-gripping or other instant kill trap with an open jaw spread that exceeds 10 inches for any water set.
- E.** An individual who uses a leghold trap to take wildlife with a land set shall use:
  - 1. A commercially manufactured, padded, or rubber-jawed trap, or an unpadded trap with jaws permanently offset to a minimum of 3/16 inch and a device to allow for pan tension adjustment;
  - 2. A commercially manufactured jawed trap that does not exceed 5 1/2 inches, modified with a pan safety device that prevents capture of non-targeted wildlife or domestic animals and a separate device that allows for pan tension adjustment; or
  - 3. A commercially manufactured leghold trap that captures wildlife by means of an enclosed bar or spring designed to prevent capture of non-targeted wildlife or domestic animals.
- F.** An individual who uses a leghold trap to take wildlife with a land set shall ensure that the trap has an anchor chain with at least two swivels. Anchor chains that are 12 inches or less in length shall have a swivel attached at each end. Anchor chains that are greater than 12 inches shall have one swivel attached at the trap and one swivel attached within 12 inches of the trap. The anchor chain shall be equipped with a shock-absorbing spring that requires less than 40 pounds of force to extend or open the spring.
- G.** Every licensed trapper shall file a complete written report as required by A.R.S. § 17-361(D) with the Phoenix Office of the Department by April 1 of each year on a form available from any Department office. The trapper shall file the report even if no trapping is done.
- H.** Persons suffering property loss or damage due to wildlife and who take responsive measures as permitted under A.R.S. §§ 17-239 and 17-302 are exempt from this Section. Exemption under this Section does not authorize any form of trapping prohibited by A.R.S. § 17-301.
- I.** All trappers shall ensure that their traps are plainly identified with the name and address or registered number of the owner as prescribed by A.R.S. § 17-361(B). All trappers shall ensure that each of their traps has the name and address or registered number of the owner legibly marked on a metal tag attached to the trap. The number assigned by the Department is the only acceptable registered number. For the purpose of this Section, "owner" means the person placing, setting, or using the trap.
- J.** An individual who applies for a trapping license shall provide the following information on a form available from any Department office:
  - 1. Full name, address, and telephone number;
  - 2. Date of birth and physical description;
  - 3. An identification number assigned by the Department;
  - 4. Category of license: resident, nonresident, or juvenile; and

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5. The signature of the applicant.
- ~~K.~~ The Department shall issue a registered number to a trapper and enter the number on the trapping license at the time the trapper purchases the license. A trapper under the age of 14 is not required to purchase a trapping license, but shall obtain a registration number from any Department office before taking wildlife with a trap. A trapper's registration number is not transferable.
- ~~L.~~ All trappers shall ensure that the unskinned carcass of a bobcat that they have trapped in this state or the pelt of any bobcat that they have trapped in this state has a validated bobcat transportation tag attached to the carcass or pelt, except for a pelt tagged for sale and export under subsection (M):
1. Trappers shall provide the following information on the bobcat transportation tag: current trapping license number, game management unit where the bobcat was taken, sex of the bobcat, and method by which the bobcat was taken. The Department shall provide transportation tags with each trapping license. A licensed trapper may obtain additional transportation tags from any Department office at no charge.
  2. Trappers shall validate transportation tags immediately upon taking the bobcat by legibly and completely filling in all information required on the tag.
- ~~M.~~ Trappers shall ensure that pelts of bobcats that they have taken in this state that are sold, offered for sale, or exported from the state shall have bobcat permit tags (export tags) locked through the mouth and an eye opening, or through both eye openings so that the permit tag cannot be removed without being damaged. Trappers may obtain bobcat permit tags as follows:
1. Bobcat permit tags are available for a fee as provided in R12-4-102 at Department offices and other locations at those times and places as determined and published by the Department.
  2. When available, bobcat permit tags are issued on a first-come, first-served basis from November 1 through April 10 of each year.
  3. Department personnel or authorized agents of the Department shall attach and lock bobcat permit tags only to those pelts presented with validated transportation tags. Department personnel or authorized agents of the Department shall collect the transportation tags before attaching the bobcat permit tags.
  4. The April 10 deadline is waived for pelts consigned to licensed taxidermists for tanning or mounting.
  5. Department personnel shall attach bobcat permit tags to bobcat pelts seized under A.R.S. § 17-211(D)(4) before disposal by the Department. The April 10 deadline is waived for pelts tagged under this subsection.
- A. An Arizona trapping license permits an individual to trap predatory and fur-bearing animals. The Department shall issue a registration number to a trapper and enter the number on the trapping license at the time the trapper purchases the license. The trapper registration number is not transferable.
- B. A trapping license is required for any individual 14 years of age and older. An individual under the age of 14 is not required to purchase a trapping license, but shall apply for and obtain a registration number.
- C. An individual born on or after January 1, 1967 shall successfully complete a Department-approved trapping education course before applying for a trapping license.
- D. An individual applying for a trapping registration number or trapping license shall pay the applicable fees established under R12-4-102.
- E. An individual applying for a trapping registration number or trapping license shall apply using a form furnished by the Department. The form is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The individual shall provide all of the following information on the form:
1. Applicant's:
    - a. Full name, address, and telephone number;
    - b. Date of birth and physical description;
  2. Identification number assigned by the Department;
  3. Category of license:
    - a. Resident,
    - b. Nonresident, or
    - c. Juvenile, and
  4. The applicant's signature.
- F. A trapper may only trap predatory and fur-bearing animals during trapping seasons established by Commission Order.
- G. A trapper shall:
1. Inspect traps daily;
  2. Kill or release all predatory and fur-bearing animals;
  3. Possess a choke restraint device that enables the trapper to release a javelina from a trap when trapping in a javelina hunt unit, as designated by Commission Order;
  4. Possess a device that is designed or manufactured to restrain a trapped animal while it is being removed from a trap when its release is required by this Section; and
  5. Release, without additional injury, all animals that cannot lawfully be taken by trap.
  6. Subsections (G)(3) and (G)(4) do not apply when the trapper is using a confinement trap.

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- H.** A trapper shall not:
1. Bait a confinement trap with:
    - a. A live animal;
    - b. Any edible parts of small game, big game, or game fish; or
    - c. Any part of any game bird or nongame bird.
  2. Set any trap within:
    - a. One-half mile of any of the following areas developed for public use:
      - i. Boat launching area,
      - ii. Camping area,
      - iii. Picnic area, or
      - iv. Roadside rest area.
    - b. One-half mile of any occupied residence or building without permission of the owner or resident.
    - c. One-hundred yards of an interstate highway or any other highway maintained by the Arizona Department of Transportation.
    - d. Fifty feet of any trail maintained for public use by a government agency.
    - e. Seventy-five feet of any other road as defined under A.R.S. § 17-101.
    - f. Subsections (H)(2)(b), (H)(2)(c), (H)(2)(d), and (H)(2)(e) do not apply when the trapper is using a confinement trap.
  3. Set a foothold trap within 30 feet of sight-exposed bait.
  4. Use any:
    - a. Body-gripping or other instant kill trap with an open jaw spread that exceeds 5 inches for any land set or 10 inches for any water set;
    - b. Foothold trap with an open jaw spread that exceeds 7 1/2 inches for any water set;
    - c. Snare, unless authorized under subsection (I);
    - d. Trap with an open jaw spread that exceeds 6 1/2 inches for any land set; or
    - e. Trap with teeth.
- I.** A trapper who uses a foothold trap to take wildlife with a land set shall use commercially manufactured traps that meet the following specifications:
1. A padded or rubber-jawed trap or an unpadded trap with jaws permanently offset to a minimum of 3/16 inch and a device that allows for pan tension adjustment;
  2. A foothold trap that captures wildlife by means of an enclosed bar or spring designed to prevent the capture of non-targeted wildlife or domestic animals; or
  3. A powered cable device with an inside frame hinge width no wider than 6 inches, a cable loop stop size of at least 2 inches in diameter to prevent capture of small non-target species, and a device that allows for a pan tension adjustment.
- J.** A trapper who uses a foothold trap to take wildlife with a land set shall ensure that the trap has an anchor chain equipped with at least two swivels as follows:
1. An anchor chain 12 inches or less in length shall have a swivel attached at each end.
  2. An anchor chain greater than 12 inches in length shall have one swivel attached at the trap and one swivel attached within 12 inches of the trap. The anchor chain shall be equipped with a shock-absorbing spring that requires less than 40 pounds of force to extend or open the spring.
- K.** A trapper shall ensure that each trap has either the name and address or the registration number of the trapper marked on a metal tag attached to the trap. The number assigned by the Department is the only acceptable registration number.
- L.** A trapper shall immediately attach a valid bobcat transportation tag to the pelt or unskinned carcass of a bobcat taken in this state. The trapper shall validate the transportation tag by providing all of the following information on the bobcat transportation tag:
1. Current trapping license number,
  2. Game management unit where the bobcat was taken,
  3. Sex of the bobcat, and
  4. Method by which the bobcat was taken.
- M.** The Department shall provide transportation tags with each trapping license. Additional transportation tags are available at any Department office at no charge.
- N.** A trapper shall ensure that all bobcats taken in this state have a bobcat seal attached and locked either through the mouth and an eye opening or through both eye openings no later than 10 days after the close of trapping season.
1. When available, bobcat seals are issued on a first-come, first-served basis at Department offices and other locations at those times and places as determined and published by the Department.
  2. The trapper shall pay the bobcat seal fee established under R12-4-102.
  3. Department personnel or an authorized agent shall attach and lock a bobcat seal only to a pelt or unskinned carcass presented with a validated transportation tag and a complete lower jaw identified with labels provided with the trans-

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portation tag. Department personnel or authorized agents shall collect the transportation tags and jaws before attaching the bobcat seal.

- O.** Department personnel shall attach a bobcat seal to a bobcat pelt seized under A.R.S. § 17-211(E)(4) before disposal by the Department to the public.
- P.** A licensed trapper shall file the annual report prescribed under A.R.S. § 17-361(D).
  - 1. The trapper shall submit the report to Arizona Game and Fish Department, Game Branch, 5000 W. Carefree Highway, Phoenix, AZ 85086 by April 1 of each year.
  - 2. A report is required even when trapping activities were not conducted. The report form is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov).
  - 3. The Department shall deny a trapping license to any trapper who fails to submit an annual report until the trapper complies with reporting requirements.
- Q.** Persons suffering property loss or damage due to wildlife and who take responsive measures as permitted under A.R.S. §§ 17-239 and 17-302 are exempt from this Section. This exemption does not authorize any form of trapping prohibited under A.R.S. § 17-301.

**R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks**

- A.** The Department has the authority to establish mandatory wildlife check stations.
  - 1. The Department shall publish in the Commission Order establishing the season the location:
    - a. Location, check in
    - b. Check in requirements, and check out
    - c. Check-out requirements for a that specific season with the published Commission order establishing the season.
  - 1. Hunters shall personally check in at a wildlife check station before hunting in a season with a published check in requirement.
  - 2. The Department shall ensure that a wildlife check stations station with a published check in:
    - a. Check in requirement are is open continuously from:
      - i. 8:00 a.m. the day before the season until 8:00 p.m. the first day of the season, and from
      - ii. 8:00 a.m. to 8:00 p.m. during each day of the season.
    - b. Check-out requirement is open:
      - i. 8:00 a.m. to 8:00 p.m. during each day of the season, and
      - ii. Until 12:00 noon on the day after the close of the season.
  - 3. A hunter shall:
    - a. Check in at a wildlife check station in person before hunting when the Department includes a check in requirement in the Commission Order for that season;
    - b. Hunters shall personally check out Check out at a wildlife check station in person after hunting in a season with a published when the Department includes a check-out requirement in the Commission Order for that season; and shall present:
      - i. Present for inspection any wildlife taken; and display
      - ii. Display any license, tag, or permit required for taking or transporting wildlife.
  - 4. The Department shall ensure that wildlife check stations with a published check-out requirement are open continuously from 8:00 a.m. to 8:00 p.m. during each day of the season and remain open until 12:00 noon on the day following the close of the season.
- B.** The Department has the authority to may conduct inspections for bighorn sheep, archery deer, bear, mountain lion and special big game license tags (deer, elk, antelope, and buffalo) of lawfully taken wildlife at the Department's Phoenix and regional offices or designated locations during the posted business hours. Regional offices are open 8:00 a.m. to 5:00 p.m., Monday through Friday, except on legal state holidays.
  - 1. All A bighorn sheep hunters hunter shall personally check out check out either in person or by designee within three days after the close of the season. Each The hunter who takes a bighorn sheep, or designee shall submit the intact horns and skull for inspection and photographing. The A Department representative shall affix a mark or seal to one horn of each bighorn sheep lawfully taken under Commission order Order. The hunter shall not It is unlawful for any person to remove, alter, or obliterate the mark or seal.
  - 2. All special big game license tag hunters who tag a deer, elk, antelope, or buffalo shall submit the intact horns or antlers and skull or skullcap for inspection and photographing within three days after the close of the season.
  - 3. A successful non-permit tag archery deer hunter shall report information about the kill to a Department office in person or by telephone within 10 days of taking the deer if the hunt area does not have a check station requirement.
  - 4.2. A successful bear or mountain lion hunter shall report:
    - a. Report information about the kill to the Department either in person or by telephone within 48 hours of taking the wildlife. The report shall include the name:
      - i. Name of the hunter, the hunter's
      - ii. Hunter's hunting license number, the sex
      - iii. Sex of the wildlife taken, the management

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- iv. Management unit where the wildlife was taken, ~~and a telephone~~
- v. Telephone number where the hunter can be reached for additional information, ~~and~~
- vi. Any additional information required by the Department.
- b. ~~Within 10 days of taking the wildlife, each hunter who takes a bear or mountain lion shall present~~ Present either in person or by designee the skull, hide, and attached proof of sex for inspection within 10 days of taking the wildlife. If a hunter freezes the skull or hide before presenting it for inspection, the hunter shall prop the jaw open to allow access to the teeth and ensure that the attached proof of sex is identifiable and accessible.
- 3. For seasons other than bear, bighorn sheep, or mountain lion, where a harvest objective is established, a successful hunter shall report information about the kill either in person or by telephone within 48 hours of taking the wildlife. The report shall include the information required under subsection (B)(2)(a).
- C. The Director ~~or Director's designee~~ may establish vehicle roadblocks at specific locations when necessary to ensure compliance with applicable wildlife laws. Any occupant of a vehicle at a roadblock shall, upon request, present for inspection all wildlife in possession, and produce and display any license, tag, stamp, or permit required for taking or transporting wildlife.
- D. This Section does not limit the game ranger or wildlife manager's authority to conduct stops, searches, and inspections authorized under A.R.S. §§ ~~17-211(D)~~ 17-211(E), 17-250(A)(4), and 17-331, or to establish voluntary wildlife survey stations to gather biological information.

**R12-4-309. Authorization for Use of Drugs on Wildlife**

~~A.~~ For the purposes of this Section:

- 1. ~~"Administer" means to pursue, capture, or otherwise restrain wildlife in order to apply directly a drug to wildlife, whether by injection, inhalation, ingestion or any other means.~~
- 2. ~~"Drug" means any chemical substance, other than food or mineral supplements, which affects the structure or biological function of any wildlife under the jurisdiction of the state.~~
- 3. ~~"Person" means any individual, corporation, partnership, limited liability company, non-governmental organization or club, licensed animal shelter, government entity other than the Department, and any officer, employee, volunteer, member or agent of a person.~~

~~B.A.~~ A person shall not administer any drug to any wildlife under the jurisdiction of the state, including but not limited to drugs used for fertility control, disease prevention or treatment, immobilization, or growth stimulation without written authorization from the Department or as otherwise provided under subsection ~~(F)~~ (E).

~~C.B.~~ A person requesting written authorization for the use of drugs on wildlife shall submit the request in writing to the Department at 5000 W. Carefree Hwy, Phoenix, AZ 85086 and at least 120 days before the anticipated start date of the activity and provide all of the following:

- 1. A plan that includes:
  - a. The purpose and need for the proposed activity;
  - b. A clear statement of the objectives; for fertility control the statement shall include the target wildlife population goals or densities and the anticipated time-frame for meeting these objectives;
  - c. A description of the agent, drug, or method including federal approvals or permits obtained, as applicable, and any mandated labeling restrictions or limitations designed to reduce or minimize detrimental effects to wildlife and humans;
  - d. Required approvals, including, but not limited to, any federal or state agency approvals for specific use;
  - e. Citations of published scientific literature documenting field studies on the efficacy and safety for both target and non-target species, including predators, scavengers, and humans;
  - f. A description of the activity area;
  - g. A description of the target species population and current status;
  - h. A description of the field methodology for delivery ~~including timing, sex, and number of animals to be treated, percentage of the population to be treated, and if applicable, calculated population effect; and that includes the following, as applicable:~~
    - i. Timing.
    - ii. Sex and number of animals to be treated.
    - iii. Percentage of the population to be treated.
    - iv. Calculated population effect, and
    - ~~i-v.~~ Short and long term monitoring and evaluation procedures.
- 2. Documentation regarding the experience and credentials of the applicant or the applicant's agents as it applies to the requested activity;
- 3. Written endorsement from the agency or institution; required when the applicant is a government agency, university, or other institution; and
- 4. Written permission from landowners or lessees in all locations where the drug will be administered.

~~D.C.~~ The Department shall notify the applicant of the Department's decision to grant or deny the request within 90 days. The Department has the authority to place conditions on the written authorization regarding:

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1. Locations and time-frames,
2. Drugs and methodology,
3. Limitations,
4. Reporting requirements, and
5. Any other conditions deemed necessary by the Department.

~~E.D.~~ A person with authorization shall:

1. Carry written authorization while engaged in the activity and exhibit it upon request to any peace officer;
2. Allow Department personnel to be present to monitor activities for compliance, public safety, and proper treatment of animals;
3. Adhere to all drug label restrictions and precautions;
4. Provide an annual and final report:
  - a. The annual report must include the number of animals treated, the level of treatment effect obtained to date, and any problems including mortalities or morbidities of target animals.
  - b. The final report must include the end results, including the number of wildlife treated and treatment effects on target and non-target wildlife, including mortalities, morbidities, and reproductive rate changes.
5. Comply with all conditions and requirements set forth in the written authorization.

~~F.E.~~ This Section does not prohibit the treatment of wildlife by a licensed veterinarian or holder of a special license in accordance with R12-4-407(A)(2); ~~and (8) and~~ R12-4-428(B)(13), activities as authorized under R12-4-418, R12-4-420, R12-4-421, and R12-4-423, an individual exempt from special licensing under R12-4-407(A)(4) and (5), or reasonable lethal removal activities for wildlife control as authorized under A.R.S. § 17-239(A).

~~G.F.~~ This Section does not limit:

1. Department employees or Department agents in the performance of their official duties related to wildlife management;
2. The practices of aquaculture facilities administered by the US Fish and Wildlife Service, and commercial aquaculture facilities operating under a valid license from the Arizona Department of Agriculture, or
3. The use of supplements or drugs as a part of conventional livestock operations where those supplements may incidentally be consumed by wildlife.

~~H.G.~~ The Department shall take possession of and dispose of any remaining wildlife drugs administered in violation of this Section and any devices and paraphernalia used to administer those drugs, as authorized under A.R.S. §§ 17-211(E), 17-231(A), and 17-240(B).

**R12-4-310. Fishing Permits**

~~A.~~ The Department may issue a ~~Fishing Permit~~ fishing permit to state, county, or municipal agencies or departments and to nonprofit organizations licensed by or contracted with the Department of Economic Security or Department of Health Services, whose primary purpose is to provide physical or mental rehabilitation or training for individuals with physical, developmental, or mental disabilities.

~~B.~~ ~~The permit will allow individuals with physical, developmental, or mental disabilities to fish without a fishing license. The permit will authorize this activity for up to 20 individuals for the two days specified on the permit upon any public waters except that fishing in the waters of the Colorado River is restricted to fishing from the Arizona shoreline only, unless the persons fishing under the authority of the permit also possess a valid Colorado River stamp from the adjacent state. The individuals fishing under the authority of the permit shall comply with other statutes, Commission orders, and rules not contained in this Section.~~

1. Is valid for the two days specified on the permit;
2. Authorizes up to 20 individuals with physical, developmental, or mental disabilities to fish without a fishing license upon any public waters except that fishing in the waters of the Colorado River is restricted to fishing from the Arizona shoreline only, unless the persons fishing under the authority of the permit also possess a valid Colorado River stamp from the adjacent state; and
3. Does not exempt individuals fishing under the authority of the permit from compliance with other statutes, Commission Orders, and rules not contained in this Section.

~~B.C.~~ An applicant for a ~~Fishing Permit~~ fishing permit shall ~~provide the following~~ submit a properly completed application to the Department. ~~The application is furnished by the Department and is available from any Department office and online at [www.azgfd.gov](http://www.azgfd.gov).~~

1. ~~A completed application form obtained from the Department that contains:~~ The applicant shall provide all of the following information:
  - a. The name, address, and telephone number of the agency, department, or nonprofit organization requesting the permit;
  - b. The name, position title, and telephone number of the individual ~~who will be~~ responsible for supervising the individuals ~~who will be~~ fishing under the authority of the permit;
  - c. The total number of individuals who will be fishing under the authority of the permit;
  - d. The dates of the two days for which the permit will be valid; and

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- e. The location for which the permit will be valid.
- 2. ~~Nonprofit~~ In addition to the information required under subsection (C)(1), nonprofit organizations shall also submit documentation that they are licensed by or have a contract with the Department of Economic Security or the Department of Health Services for the purpose of providing rehabilitation or treatment services to individuals or groups with physical, developmental, or mental disabilities.
- ~~C.D.~~ The Department shall issue or deny the ~~Fishing Permit~~ fishing permit to an applicant within 30 calendar days of receiving an application.
- ~~D.E.~~ The ~~Fishing Permit~~ permittee ~~fishing permit holder~~ shall provide ~~one hour of~~ instruction on fish identification, fishing ethics, safety, and techniques to the individuals who will be fishing under authority of the permit. The Department shall provide the lesson plan for this instruction to the ~~permittee~~ permit holder.
- ~~E.F.~~ Each individual fishing without a license under the authority of the ~~Fishing Permit~~ fishing permit may take only one-half the regular bag limit established by Commission ~~order~~ Order for any species, unless the regular bag limit is one, in which case the permit authorizes the regular limit.
- ~~F.G.~~ The ~~permittee~~ permit holder shall submit a report to the Department not later than 30 days after the end of the authorized fishing dates. ~~The report form is furnished by the Department and is available at any Department office. The Department may deny issuance of future Fishing Permits to permittees who fail to submit the report.~~ The ~~permittee~~ permit holder shall report all of the following information on a ~~the form available from the Department:~~
  - 1. The ~~Fishing Permit~~ fishing permit number and the information contained in the permit;
  - 2. The total number of individuals who fished and total hours fished;
  - 3. The total number of fish caught, kept, and released, by species.
- ~~H.~~ The Department may deny future fishing permits to a permit holder who failed to submit the report until the permit holder complies with reporting requirements.

**R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License or Hunting License While Taking Aquatic Wildlife**

- ~~A.~~ A fishing license is not required to take aquatic wildlife from private waters that are not open to the public and not managed by the Department.
- ~~B.~~ An individual may take terrestrial mollusks or crustaceans from private property without a fishing license.
- ~~C.~~ Any individual fishing in Arizona on the designated Saturday during National Fishing and Boating Week may fish without an Arizona fishing license if the individual's privilege to take aquatic wildlife has not been revoked by the Commission. ~~The provisions of this subsection apply to all waters except the Colorado River adjacent to California and Nevada, where fishing without a license is limited to the shoreline, unless the state with concurrent jurisdiction removes licensing requirements on the same day. The provisions of this subsection do not apply to Reservation lands except as authorized by tribal governments.~~
- ~~D.~~ An individual participating in an introductory fishing clinic organized, sanctioned, and sponsored by the Department may fish without a fishing license while an authorized Department instructor is present.

In addition to the exemptions prescribed under A.R.S. § 17-335, and provided the individual's fishing and hunting license privileges are not currently revoked by the Commission:

- 1. A fishing license is not required when an individual is:
  - a. Fishing from artificial ponds, tanks, and lakes contained entirely on private lands that are not:
    - i. Open to the public, and
    - ii. Managed by the Department.
  - b. Taking terrestrial mollusks or crustaceans from private property.
  - c. Fishing in Arizona on any designated Saturday occurring during National Fishing and Boating Week, except in waters of the Colorado River forming the common boundaries between Arizona and California, Nevada, or Utah where fishing without a license is limited to the shoreline, unless the state with concurrent jurisdiction removes licensing requirements on the same day.
  - d. Participating in an introductory fishing education program sanctioned by the Department, during scheduled program hours, only. A sanctioned program shall have a Department employee, sport fishing contractor, or authorized volunteer instructor present during scheduled program hours. For the purposes of this subsection, "authorized volunteer instructor" means an individual who has successfully passed the Department's required background check and sport fishing education workshop.
- 2. A hunting license is not required when an individual is participating in an introductory hunting event organized, sanctioned, or sponsored by the Department. The individual may hunt small game, furbearing, predator, and designated mammals during scheduled event hours, only. To hunt migratory birds, the individual shall have any stamps required by federal regulation. The introductory hunting event shall have a Department employee, certified hunter education instructor, or authorized volunteer present during scheduled hunting hours. For the purposes of this subsection, "authorized volunteer" means an individual who has successfully passed the Department's required background check and Department event best practices training. This subsection does not apply to any event that requires participants to obtain a permit-tag or nonpermit-tag.

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**R12-4-312. Special Use Permits and Stamps for Fishing on Waters with Shared Jurisdiction**

- A. Any individual fishing from a watercraft or other floating device or object on the waters of Lake Mead, Lake Mohave, or that portion of the Colorado River that forms the ~~mutual~~ common boundary between Arizona and Nevada; shall have in possession:
  - 1. A valid Arizona-Colorado River special use stamp ~~affixed to~~ and a valid Arizona fishing license, or
  - 2. A valid Nevada-Colorado River special use stamp ~~affixed to~~ and a valid Nevada fishing license.
- B. Any individual fishing from the Arizona shorelines of the waters named in subsection (A), unless ~~exempted by~~ exempt under A.R.S. § 17-335, R12-4-310, or R12-4-311, shall have in possession either:
  - 1. A valid Arizona fishing license, ~~unless exempted under A.R.S. § 17-335~~; or
  - 2. A valid Nevada-Colorado River special use stamp ~~affixed to~~ and a valid Nevada fishing license.
- C. Any individual fishing in the waters of Mitty Lake or Topock Marsh, unless ~~exempted by~~ exempt under A.R.S. § 17-335, R12-4-310, or R12-4-311, shall have in possession either:
  - 1. A valid Arizona fishing license, ~~unless exempted under A.R.S. § 17-335~~; or
  - 2. A valid Arizona-Colorado River special use permit stamp ~~affixed to~~ and a valid California fishing license.
- D. Any individual fishing in the Arizona portion of Lake Powell, unless ~~exempted by~~ exempt under A.R.S. § 17-335, R12-4-310, or R12-4-311, shall have in possession either:
  - 1. A valid Arizona fishing license ~~unless exempted under A.R.S. § 17-335~~; or
  - 2. A valid Arizona-Lake Powell stamp ~~affixed to~~ and a valid Utah resident fishing license.
- E. The requirements of this Section are in addition to those ~~contained in~~ prescribed under A.R.S. §§ 17-342, 17-343, and 17-344.

**R12-4-313. Lawful Methods of Taking Aquatic Wildlife**

- A. An individual may take aquatic wildlife as defined ~~in~~ under A.R.S. § 17-101, subject to the restrictions prescribed ~~in~~ under R12-4-303, R12-4-317, and this Section. Aquatic wildlife may be taken during the day or night and may be taken using artificial light as prescribed ~~in~~ under A.R.S. § 17-301.
- B. The Commission may, through Commission ~~order~~ Order, prescribe legal sizes for possession of aquatic wildlife.
- C. An individual may take aquatic wildlife by angling or simultaneous fishing as defined ~~in R12-4-101~~ under R12-4-301 with any bait, artificial lure, or fly subject to the following restrictions: ~~An~~, an individual:
  - 1. Shall not possess aquatic wildlife other than aquatic wildlife prescribed by Commission ~~order~~ Order;
  - 2. Shall not use the flesh of game fish as bait, except sunfish of the genus *Lepomis*; ~~as bait~~;
  - 3. May use live baitfish, as defined ~~in~~ under R12-4-101, only in areas designated by Commission ~~order~~ Order; and
  - 4. Shall not use waterdogs as live bait in that portion of Santa Cruz County lying east and south of State Highway 82 or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
- D. In addition to angling, an individual may also take the following aquatic wildlife using the following methods, subject to the restrictions ~~of~~ established under R12-4-303, R12-4-317, and this Section:
  - 1. Carp (*Cyprinus carpio*), buffalofish, mullet, tilapia, goldfish, and shad may ~~also~~ be taken by ~~bow and arrow, crossbow, snare, gig, spear, spear gun, or snagging~~. ~~Except for snagging, an individual shall not practice any of these methods of take within 200 yards of any boat dock or designated swimming area:~~
    - a. Bow and arrow.
    - b. Crossbow.
    - c. Snare.
    - d. Gig.
    - e. Spear or spear gun, or
    - f. Snagging.
  - 2. Except for snagging, an individual shall not use any of the methods of take listed under subsection (D)(1) within 200 yards of any boat dock or designated swimming area.
  - 2-3. Striped bass may ~~also~~ be taken by spear or spear gun in waters designated by Commission ~~order~~ Order.
  - 3-4. Live baitfish may ~~also~~ be taken for personal use as bait by:
    - a. A cast net not to exceed a radius of ~~four~~ 4 feet measured from the horn to the leadline;
    - b. A minnow trap, as defined ~~in R12-4-101~~ under R12-4-301;
    - c. A seine net not to exceed 10 feet in length and ~~four~~ 4 feet in width; or
    - d. A dip net.
  - 5. Catfish may be taken by bow and arrow or crossbow in waters designated by Commission Order.
  - 4-6. Amphibians, soft-shelled turtles, mollusks, and crustaceans may ~~also~~ be taken by minnow trap, crayfish net, hand, or with any hand-held, non-motorized implement that does not discharge a projectile, unless otherwise permitted ~~by~~ under this Section.
  - 5-7. In addition to the methods described ~~in~~ under subsection ~~(D)(4) of this Section~~ (D)(6), bullfrogs may ~~also~~ be taken by ~~bow and arrow, crossbow, or slingshot~~:
    - a. Bow and arrow.
    - b. Crossbow.

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c. Pneumatic weapon, or

d. Slingshot.

~~6.8.~~ In addition to the methods described in under subsection ~~(D)(4)~~ of this Section (D)(6), crayfish may also be taken with the following devices:

a. A trap not more than ~~three~~ 3 feet in the greatest dimension; ~~or~~

b. A dip net as defined under R12-4-301, or

~~b-c.~~ A seine net not larger than ~~ten~~ 10 feet in length and ~~four~~ 4 feet in width.

E. An individual who uses a crayfish net and minnow trap shall ~~attach a water-resistant identification tag to the trap if it is unattended. The tag shall include the legible name, address, and fishing license number of the individual using the trap.~~ An individual using a crayfish and minnow trap shall raise and empty the trap daily.

1. Attach a water-resistant identification tag to the trap when it is unattended. The tag shall include the individual's:

a. Name.

b. Address, and

c. Fishing license number.

2. Raise and empty the trap daily.

**R12-4-315. Possession of Live Fish; Unattended Live Boxes and Stringers**

A. An individual may possess fish taken alive as provided under R12-4-313 on the waters where taken, except when the take or possession is expressly prohibited ~~by the provisions of under~~ R12-4-313 or R12-4-317, but the individual shall not transport the fish alive from the waters where taken except as ~~allowed in~~ authorized under R12-4-316.

B. An individual ~~who places~~ shall attach water resistant identification to any unattended live boxes or stringers holding fish ~~shall attach water resistant and ensure the identification legibly bearing the name, address, and fishing license number of the individual using and holding fish in the live box or stringer bears the individual's:~~

1. Name.

2. Address, and

3. Fishing license number.

**R12-4-316. Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs**

A. An individual may possess live baitfish, crayfish, or waterdogs for use as live bait only ~~in accordance with as established under R12-4-317 and this Section and R12-4-317.~~ as established under R12-4-317 and this Section.

B. An individual may possess or transport the following live baitfish for personal use as live bait ~~in accordance with as established under R12-4-317. An individual who possesses a valid Arizona fishing license may import these live baitfish from California or Nevada without accompanying documentation certifying the fish are free of disease, or may import these live baitfish from any other state with accompanying documentation certifying that the fish are free of Furunculosis.~~

1. Fathead minnow (*Pimephales promelas*);

2. Mosquitofish (*Gambusia affinis*);

3. Red shiner (*Cyprinella lutrensis*);

~~4.3.~~ Threadfin shad (*Dorosoma petenense*);

~~5.4.~~ Golden shiners (*Notemigonus crysoleucas*); and

~~6.5.~~ Goldfish (*Carassius auratus*).

C. An individual who possesses a valid Arizona fishing license may ~~import:~~

1. Import, transport, or possess live waterdogs for personal use as bait, except in the portion of Santa Cruz County lying east and south of State Highway 82 or the portion of Cochise County lying west of the San Pedro River and south of State Highway 82.

2. Import live baitfish listed under subsection (B) from California or Nevada without accompanying documentation certifying the fish are free of disease.

3. Import live baitfish listed under subsection (B) from any other state with accompanying documentation certifying that the fish are free of Furunculosis.

**D.** An individual may:

1. Trap or capture live crayfish as provided under R12-4-313.

2. Use live crayfish as bait only in the body of water where trapped or captured, not in an adjacent body of water, except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the Southern international boundary with Mexico.

~~D-E.~~ An individual shall not ~~import:~~

1. Import, transport, move between waters, or possess live crayfish for personal use as live bait except as allowed in 12 A.A.C. 4, Article 4, and except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the southern international boundary with Mexico.

2. Transport crayfish alive from the site where taken except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to

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the southern international boundary with Mexico.

- 3. Import, transport, move between waters, or possess live red shiner (*Cyprinella lutrensis*) for personal use.
- ~~E.~~ An individual may trap or capture live crayfish as provided in R12-4-313. A person may use live crayfish as bait only in the body of water where trapped or captured, not in an adjacent body of water, except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the Southern international boundary with Mexico.
- ~~F.~~ An individual shall not transport crayfish alive from the site where taken except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the southern international boundary with Mexico.

**R12-4-317. Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles**

- A. Methods of lawfully taking aquatic wildlife during seasons designated by Commission ~~order~~ Order as “general” seasons are designated ~~in~~ under R12-4-313.
- B. Other seasons designated by Commission ~~order~~ Order have specific requirements and lawful methods of take more restrictive than those for general seasons, as prescribed ~~in~~ under this Section. While taking aquatic wildlife under R12-4-313 an individual participating in:
  - 1. ~~An individual participating in an~~ “artificial lures and flies only” season shall use only artificial lures and flies as defined ~~in R12-4-101~~ under R12-4-301. The Commission may further restrict “artificial lures and flies only” season to the use of barbless or single barbless hooks as defined under R12-4-301. ~~A barbless hook is any fishhook manufactured without barbs or on which barbs have been completely closed or removed.~~
  - 2. ~~An individual participating in a~~ “live baitfish” season shall not possess or use any species of fish as live bait; ~~or possess any species of fish for use as live bait~~ at, in, or upon any waters unless that species is specified as a live baitfish for those waters by Commission ~~order~~ Order. Live baitfish shall not be transported from the waters where taken except as allowed in authorized under R12-4-316.
  - 3. ~~An individual participating in an~~ “immediate kill or release” season shall kill and retain the designated species as part of the bag limit or immediately release the wildlife. Further fishing is prohibited after the legal bag limit is killed.
  - 4. ~~An individual participating in a~~ “catch and immediate release” season shall immediately release the designated species.
  - 5. ~~An individual participating in an~~ “immediate kill” season shall immediately kill and retain the designated species as part of the bag limit.
  - 6. ~~An individual participating in a~~ “snagging” season shall use this method only at times and locations designated by Commission ~~order~~ Order.
  - 7. ~~An individual participating in a~~ “spear or spear gun” season shall use this method only at times and locations designated by Commission ~~order~~ Order.
- C. A “special” season may be designated by Commission ~~order~~ Order to allow fish to be taken by hand; or by any hand-held, non-motorized implement that does not discharge a projectile. The “special” season may apply to any waters where a fish die-off is imminent due either to poor or low water conditions ~~or~~ Department fish renovation activities, or as designated by Commission ~~order~~ Order.

**R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles**

- A. Methods of lawfully taking wild mammals ~~and~~ birds, and reptiles during seasons designated by Commission Order as “general” seasons are designated under R12-4-304.
- B. Methods of lawfully taking big game during seasons designated by Commission Order as “special” are designated under R12-4-304. “Special” seasons are open only to individuals who possess a special big game license tag authorized under A.R.S. § 17-346 and R12-4-120.
- C. When designated by Commission Order, the following seasons have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed ~~in~~ under this Section. While taking the species authorized by the season, an individual participating in:
  - 1. ~~An individual participating in a~~ “CHAMP” season shall be a challenged hunter access/mobility permit holder as established under R12-4-217.
  - 2. ~~An individual~~ “junior's-only hunt” shall be under the age of 18 ~~who meets and meet~~ the requirements prescribed under A.R.S. § 17-335 ~~may participate in a “juniors-only hunt.”~~ A youth hunter whose 18th birthday occurs during a “juniors-only hunt” for which ~~they have the~~ youth hunter has a valid permit or tag may continue to participate for the duration of that “juniors-only hunt.”
  - 3. ~~An individual participating in a~~ “pursuit-only” season may use dogs to pursue bears, mountain lions, or raccoons as designated by Commission Order, but shall not kill or capture the quarry. An individual participating in a “pursuit-only” season shall possess and, at the request of Department personnel, produce a valid hunting license and any required tag for taking the animal pursued, even though there shall be no kill.
  - 4. ~~An individual participating in a~~ “restricted season” may use any lawful method authorized for a specific species under R12-4-304, except dogs may not be used to pursue the wildlife for which the season was established.

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5. An individual participating in an “archery-only” season shall not use any other weapons, including crossbows or bows with a device that holds the bow in a drawn position except as authorized under R12-4-216. An individual participating in an “archery-only” season may ~~only~~ use one or more the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
  - a. Bows and arrows as ~~prescribed under R12-4-304~~, and
  - b. Falconry.
6. An individual participating in a Δ “handgun, archery, and muzzleloader (HAM)” season may ~~only~~ use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
  - a. Bows and arrows as ~~prescribed under R12-4-304~~,
  - b. Crossbows as ~~prescribed under R12-4-304~~ or bows to be drawn and held with an assisting device,
  - c. Handguns, and
  - d. Muzzle-loading rifles as defined under ~~R12-4-101~~ R12-4-301.
7. An individual participating in a Δ “muzzleloader” season shall not use any firearm other than muzzle-loading rifles or muzzle-loading handguns, as defined under ~~R12-4-101~~ may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
  - a. Bows and arrows;
  - b. Crossbows or bows to be drawn and held with an assisting device; and
  - c. Muzzleloading rifles or handguns, as defined under R12-4-301.
8. An individual participating in a Δ “limited weapon” season may ~~only~~ use one or more of the following methods or devices for taking wildlife, ~~when~~ if authorized under R12-4-304 as lawful for the species hunted:
  - a. Any trap except foothold traps,
  - b. ~~Bow and arrow~~ Bows and arrows,
  - c. Capture by hand,
  - d. Crossbows as ~~prescribed under R12-4-304~~ or bows to be drawn and held with an assisting device,
  - e. Dogs,
  - f. Falconry,
  - g. Hand-propelled projectiles,
  - h. Nets,
  - i. Pneumatic weapons discharging a single projectile .25 caliber or smaller, or
  - j. Slingshots.
9. An individual participating in a Δ “limited weapon hand or hand-held implement” season may ~~only~~ use one or more of the following methods or devices for taking wildlife, ~~when prescribed~~ if authorized under R12-4-304 as lawful for the species hunted:
  - a. Catch-pole,
  - b. Hand,
  - c. Snake hook, or
  - d. Snake tongs.
10. An individual participating in a Δ “limited weapon-pneumatic” season may ~~only~~ use one or more of the following methods or devices for taking wildlife, ~~when prescribed~~ if authorized under R12-4-304 as lawful for the species hunted:
  - a. Capture by hand,
  - b. Dogs,
  - c. Falconry,
  - d. Hand-propelled projectiles,
  - e. Nets,
  - f. Pneumatic weapons discharging a single projectile ~~.22~~ .25 caliber or smaller, or
  - g. Slingshots.
11. An individual participating in a Δ “limited weapon-rimfire” season may ~~only~~ use one or more of the following methods or devices for taking wildlife, ~~when~~ if authorized under R12-4-304 as lawful for the species hunted:
  - a. Any trap except foothold traps,
  - b. ~~Bow and arrow~~ Bows and arrows,
  - c. Capture by hand,
  - d. Crossbows as ~~prescribed under R12-4-304~~ or bows to be drawn and held with an assisting device,
  - e. Dogs,
  - f. Falconry,
  - g. Hand-propelled projectiles,
  - h. Nets,
  - i. Pneumatic weapons,
  - j. Rifled firearms using rimfire cartridges,

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- k. Shotgun shooting shot or slug, or
- l. Slingshots.
- 12. ~~An individual participating in a~~ A “limited weapon-shotgun” season may ~~only~~ use one or more of the following methods or devices for taking wildlife, ~~when if~~ authorized under R12-4-304 as lawful for the species hunted:
  - a. Any trap except foothold traps,
  - b. ~~Bow and arrow~~ Bows and arrows,
  - c. Capture by hand,
  - d. Crossbows ~~as prescribed under R12-4-304~~ or bows to be drawn and held with an assisting device,
  - e. Dogs,
  - f. Falconry,
  - g. Hand-propelled projectiles,
  - h. Nets,
  - i. Pneumatic weapons,
  - j. Shotgun shooting shot or slug, or
  - k. Slingshots.
- 13. ~~An individual participating in a~~ A “limited weapon-shotgun shooting shot” season may ~~only~~ use one or more of the following methods or devices for taking wildlife, ~~when if~~ authorized under R12-4-304 as lawful for the species hunted:
  - a. Any trap except foothold traps,
  - b. ~~Bow and arrow~~ Bows and arrows,
  - c. Capture by hand,
  - d. Crossbows ~~as prescribed under R12-4-304~~ or bows to be drawn and held with an assisting device,
  - e. Dogs,
  - f. Falconry,
  - g. Hand-propelled projectiles,
  - h. Nets,
  - i. Pneumatic weapons,
  - j. Shotgun shooting shot, or
  - k. Slingshots.
- 14. ~~An individual participating in a~~ A “falconry-only” season shall be a falconer licensed under R12-4-422 unless exempt under A.R.S. § 17-236(C) or R12-4-407. A falconer participating in a “falconry-only” season shall use no other method of take except falconry.
- 15. ~~An individual participating in a~~ A “raptor capture” season shall be a falconer licensed under R12-4-422 unless exempt under R12-4-407.

**R12-4-319. Use of Aircraft to Take Wildlife**

- A. For the purposes of this Section, ~~the following definitions apply:~~ “locate” means any act or activity that does not take or harass wildlife and is directed at locating or finding wildlife in a hunt area.
  - ~~1. “Aircraft” means any contrivance used for flight in the air or any lighter than air contrivance.~~
  - ~~2. “Locate” means any act or activity that does not take or harass wildlife and is directed at locating or finding wildlife in a hunt area.~~
- B. An individual shall not take or assist in taking wildlife from or with the aid of aircraft.
- C. Except in hunt units with Commission-ordered special seasons under R12-4-115 and R12-4-120 and hunt units with seasons only for mountain lion and no other concurrent big game season, an individual shall not locate or assist in locating wildlife from or with the aid of an aircraft in a hunt unit with an open big game season. This restriction begins 48 hours before the opening of a big game season in a hunt unit and extends until the close of the big game season for that hunt unit.
- D. An individual who possesses a special big game license tag for a special season under R12-4-115 or R12-4-120 or an individual who assists or will assist such a licensee shall not use an aircraft to locate wildlife beginning 48 hours before and during a Commission-ordered special season.
- E. This Section does not apply to any individual acting within the scope of official duties as an employee or authorized agent of the state or the United States to ~~administer~~ manage or protect or aid in the ~~administration~~ management or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

**R12-4-320. Harassment of Wildlife**

- A. In addition to the provisions ~~of established under~~ A.R.S. § 17-301, it is unlawful to harass, molest, chase, rally, concentrate, herd, intercept, torment, or drive wildlife with or from any aircraft as defined ~~in R12-4-319~~ under R12-4-301, or with or from any motorized terrestrial or aquatic vehicle.
- B. This Section does not apply to individuals acting:
  - 1. ~~Under~~ In accordance with the provisions ~~of established under~~ A.R.S. § 17-239; or
  - 2. Within the scope of official duties as an employee or authorized agent of the state or the United States to ~~administer~~



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**final rulemaking package:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 5, January 6, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 2922, November 9, 2012

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Candace Olson, Rules Analyst  
Address: Government Relations and Policy Development Office  
Department of Transportation  
206 S. 17th Ave., Mail Drop 140A  
Phoenix, AZ 85007  
Telephone: (602) 712-4534  
Fax: (602) 712-3232  
E-mail: COlson2@azdot.gov  
Web site: [http://www.azdot.gov/Government\\_Relations/adotrules](http://www.azdot.gov/Government_Relations/adotrules)

**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Arizona Department of Transportation prescribes auditing procedures, records maintenance and other requirements necessary to administer the Rental Vehicle Surcharge by rule. The Department engages in this rulemaking to clarify and provide more specific information, to reference the most current version of the U.S. Government Accountability Office's Government Auditing Standards, and to ensure conformity with the format, style, and grammar requirements of the Department, Administrative Procedure Act, Secretary of State's Office, and Governor's Regulatory Review Council.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not review or rely on any study relevant to the rules.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. A summary of the economic, small business, and consumer impact:**

In accordance with A.R.S. § 28-5810, a rental vehicle business is required to collect a 5% surcharge on rental contracts for vehicles rented for a period of 180 days or less. Rental vehicle businesses submit to the Department all Rental Vehicle Surcharges collected in excess of any Vehicle License Tax (VLT) paid to the Department for the rental vehicles regardless of whether the vehicle was rented in this state or in another state or jurisdiction.

Currently, there are 133 rental vehicle businesses required to collect, report, and remit applicable Rental Vehicle Surcharges pursuant to A.R.S. § 28-5810. The Department collected \$11,136,250.97 from excess surcharges received in 2011. The Department also collected \$239,761.30 from assessments against 10 non-compliant businesses. In 2012, 28 rental vehicle businesses failed to submit an annual report and were referred to the Department's auditors.

The Department anticipates that the state will incur moderate to substantial benefits in increased VLT revenue collection as a result of this rule.

The Department expects to incur minimal costs for administration and compliance since this rulemaking is generally intended to assist rental vehicle businesses by providing clarification of Department auditing guidelines. In addition, there is no cost for the current edition of the *Government Auditing Standards*, since it is available as a free download from the U.S. Government Accountability Office's website at <http://www.gao.gov/yellowbook>.

Rental vehicle businesses will incur minimal administrative costs associated with the clarified recordkeeping requirements outlined in this rulemaking. Any new rental vehicle businesses that begin to report due to the clarified addition of motorcycle, moped, and recreational vehicle to the rule may incur minimal to substantial costs.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

In response to the suggestions from the Governor's Regulatory Review Council staff, "individual" was added back to the definition of "person" in R17-4-350(A), an e-mail address was added to R17-4-350(B)(5) and language was added to fully incorporate by reference the *Government Auditing Standards* in R17-4-350(D).

R17-4-350(B)(2) was clarified to indicate that the form is signed by an authorized person in keeping with A.R.S. § 28-5810(E) and not an authorized preparer and the mailing address requirement was removed. In addition, R17-4-350(B)(5) was restructured to be consistent with R17-4-350(B)(2).

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In addition, minor grammatical and technical corrections were made as needed.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The Department received no public or stakeholder comments regarding this rulemaking.

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rule does not require a permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted to the Department.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

*Government Auditing Standards: 2011 Revision*, located in R17-4-350(D)

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

**15. The full text of the rules follows:**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES**

**ARTICLE 3. VEHICLE REGISTRATION**

Section

R17-4-350. Rental Vehicle Surcharge Reimbursement

**ARTICLE 3. VEHICLE REGISTRATION**

**R17-4-350. Rental Vehicle Surcharge Reimbursement**

**A.** Definitions. In addition to the definitions prescribed under A.R.S. § 28-5810, the following ~~definitions~~ terms apply to this Section, unless otherwise specified:

~~"Division" means the Arizona Department of Transportation, Motor Vehicle Division.~~

~~"Person" means an individual, a sole proprietorship, firm, partnership, joint venture, association, corporation, limited liability company, limited liability partnership, estate, trust, business trust, receiver or syndicate, this state, any county, city, town, district or other subdivision of this state, an Indian tribe, or any other group or combination acting as a unit.~~

~~"Previous year" means the prior calendar year, January 1 through December 31.~~

~~"Rental revenue" means the total contract amount stated in the retail contract less any taxes and fees imposed by A.R.S. §§ Title 42, Chapter 5, Article 1, and A.R.S. Title 48, Chapter 26, Article 2, and selected non-vehicle related charges (e.g., including boxes, packing blankets, straps, and tow bars, etc.).~~

~~"Surcharge" means the amount equal to five percent of the total contract amount stated in the rental contract less any taxes and fees imposed by A.R.S. Title 42, Chapter 5, Article 1, and A.R.S. Title 48, Chapter 26, Article 2, and selected non-vehicle related items (e.g., including boxes, packing blankets, straps, and tow bars, etc.).~~

~~"Vehicle License Tax" means the tax imposed by A.R.S. § 28-5801, less any fees tax credited under A.R.S. § 28-2356.~~

**B.** Reports. Each person subject to A.R.S. § 28-5810, who has conducted a vehicle rental business for any time period during the previous year, shall file an annual report, for the previous year, with the ~~Division~~ Department. The annual report is due no later than February 15 of each year, unless the rental business is closed before December 31, in which case the annual

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report is due immediately. The report shall be made on a form furnished by the ~~Division~~ Department and shall contain all of the following:

1. Address where business records are secured-;
2. ~~Authorized preparer's name~~ Name, title, phone number, and ~~mailing address~~ signature of the person authorized to sign the form-;
3. Business name-;
4. Business type, ~~(e.g., Individual, Partnership, Corporation, etc.)~~ including sole proprietorship, partnership, corporation, limited liability company, and limited liability partnership-;
5. ~~Contact person's name~~ Name, title, phone number, ~~and mailing address,~~ and e-mail address of the contact person-;
6. Federal Employer Identification Number (FEIN);
7. Mailing address (if different from principal business address)-;
8. Principal business address-;
9. Rental vehicle revenue collected, by county-;
10. Total Arizona Vehicle License Tax paid on rental vehicles-;
11. Total rental vehicle revenue collected-;
12. Total surcharge collected-;
13. Total surcharge due to the ~~Division~~ Department; and
14. Type of rental business, ~~(e.g., including passenger vehicle, semitrailer, trailer, truck, etc.)~~ motorcycle, moped, and recreational vehicle.

C. Records. A person in the business of renting vehicles, as defined under A.R.S. § 28-5810, is required to maintain records in support of the required annual reports for a period of four years ~~from~~ after the date of the filing of the required annual report or the due date of the report, whichever is longer. The records shall contain all information in support of:

1. The total amount of Vehicle License Tax paid during the previous year. Supporting Vehicle License Tax records for each rental vehicle shall include, ~~but are not limited to:~~
  - a. The Vehicle Identification Number-;
  - b. The Arizona vehicle license plate number-;
  - c. A copy of the Arizona registration-;
  - d. The amount paid for Vehicle License Tax minus any Vehicle License Tax fee credited under A.R.S. § 28-2356-;
  - e. The date on which the Vehicle License Tax was paid-; and
  - f. The dates the rental vehicle was in and out of service.
2. The total gross amount of Arizona vehicle rental revenues collected for the previous year. Supporting Arizona vehicle rental revenue records shall include, ~~but are not limited to:~~
  - a. The rental contract: for each rental vehicle.
  - b. The amount of surcharge collected-;
  - c. Chart of accounts-;
  - d. General ledger.
  - e. Financial statements.
  - f. Federal tax returns, and
  - g. Monthly trial balance.
3. The amount of the surcharge collected during the ~~previous~~ previous year. Supporting surcharge collection records shall include, ~~but are not limited to:~~
  - a. ~~The All applicable rental contract contracts;~~ and
  - b. The total amount stated in ~~the each~~ each rental contract, supported by relevant documentation.
4. Failure to keep and maintain proper records or failure to provide records for audit purposes may result in ~~an~~ the ~~Division~~ Department making an assessment; against the rental business for the total surcharge amount estimated to have been collected, as determined from the best information available to the ~~assistant~~ Director.

D. Audits. ~~Each~~ The Department shall conduct each audit of a person who collects the surcharge ~~will be conducted~~ in accordance with ~~Generally Accepted Accounting Procedures and generally accepted government auditing standards as set forth in Government Auditing Standards: 2011 Revision (commonly referred to as The the Yellow Book, 2003 Revision)~~ issued by the U.S. Government Accountability Office. The Department incorporates by reference Government Auditing Standards: 2011 Revision and no later amendments or editions. The incorporated material is on file with the Department. The printed version is available from the U.S. Government Printing Office, P. O. Box 979050, St. Louis, MO 63197-9000. The incorporated material is available free of charge at <http://www.gao.gov/yellowbook> or can be ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>.

1. ~~Records shall be~~ The rental business shall have records made available for audit during normal business hours at the rental business location in Arizona. ~~Audits may be conducted~~ The Department may conduct audits at an out-of-state location, ~~to be which are paid for~~ by the rental business. Audit The rental business shall pay the audit expenses, per diem, and travel ~~to be paid~~ in accordance with the Arizona Department of Transportation expense guidelines in effect at the time of the audit.



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houseboat within a ten mile radius of a lake that is located in this state and the state of Utah and whose tributary is the Colorado River (Lake Powell) if the vehicle or load does not exceed the following:

150,000 pounds gross weight;

16 1/2 feet in width;

25 feet in height; and

120 feet in length.

A person who operates a vehicle under one of these envelope permits must notify the Department of Transportation (Department) as the Director prescribes each time a vehicle hauls a houseboat under the permit. The Director is required to adopt rules, including establishing fees, for these envelope permits. The Arizona Overdimensional Permit Council approved the proposed rule on December 11, 2012.

The outermost dimensions of a load or vehicle prescribed in the term "envelope" as defined in R17-6-101 do not apply to these envelope permits because the load or vehicle dimensions for these envelope permits are specifically provided by A.R.S. § 28-1144(B).

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not review or rely on any study relevant to the rules.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**9. A summary of the economic, small business, and consumer impact:**

In Fiscal Year 2012, the Department collected \$126,635 through the issuance of 1632 single trip special permits to seven commercial houseboat transporters that the Department anticipates will use this new envelope permit. The proposed rule prescribes the applicable fee for these envelope permits as the same fee charged for any other envelope permit. As prescribed under A.R.S. § 28-1143(A) and R17-6-210, those fees are \$500 for a 30-day oversize and overweight permit and \$1500 for an annual oversize and overweight permit. The Department anticipates that only those commercial houseboat transporters that would benefit financially from the 30-day or annual envelope permit rate will apply for the envelope permit. If seven commercial houseboat transporters apply for the new annual envelope permit, the revenues generated will equal \$10,500 annually. The estimated reduction in revenues caused by this change is \$116,135 annually. The Department considered alternative fee amounts for these envelope permits that would have been more revenue neutral, but rejected those amounts.

Conversely, commercial houseboat transporters anticipated to apply for the envelope permit will benefit by a reduction in fees equal to the loss of revenues. Businesses and consumers requiring the movement of houseboats should benefit from a reduction in fees charged by the commercial houseboat transporters if the transporters pass on those savings to their customers. Since the houseboat industry is a significant industry in the Page-Lake Powell area, the City of Page and its residents and businesses should also benefit from any reduction in fees if it encourages businesses and consumers to utilize houseboats in the area.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

Not applicable.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The Department received no public stakeholder comments regarding this rulemaking.

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rule prescribes the application and use requirements for envelope permits issued by the Department for vehicles hauling houseboats within a ten mile radius of Lake Powell. The Department is not able to make this a general permit because of the specific notifications required each time the permit is used to transport a load. These envelope permits have the appearance of general permits because all vehicle and load combinations that fit within the specifically prescribed dimensions are able to use the envelope permit. Since an envelope permit is issued for transporting non-specific and non-reducible vehicle and load combinations, and an in-depth analysis by Department engineers is generally not required before issuance, the applicant needs only to provide the Department a minimal amount of information to receive the permit. However, this particular envelope permit will be issued with the understanding that the permit

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holder must notify the Department and provide additional vehicle and load specific information each time the permit is used to transport a load.

- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

The rule is not more stringent than any applicable federal law.

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted to the Department.

- 13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

This rulemaking incorporates no materials by reference.

- 14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable.

- 15. The full text of the rules follows:**

TITLE 17. TRANSPORTATION

CHAPTER 6. DEPARTMENT OF TRANSPORTATION  
OVERDIMENSIONAL PERMITS

ARTICLE 5. ENVELOPE PERMIT SPECIAL PROVISIONS

Section

R17-6-506. Page-Lake Powell Area Houseboat Hauling Envelope Permit

ARTICLE 5. ENVELOPE PERMIT SPECIAL PROVISIONS

**R17-6-506. Page-Lake Powell Area Houseboat Hauling Envelope Permit**

- A. An applicant requesting an envelope permit for a vehicle hauling a houseboat under A.R.S. § 28-1144(B) shall:**

1. Apply to the Department using the application procedure provided under R17-6-103; and
2. Pay the applicable fees prescribed under R17-6-210.

- B. A permittee issued an envelope permit under this Section shall:**

1. Comply with all provisions applicable to the application, issuance, and maintenance of envelope permits under this Chapter;
2. Notify the Department as required under A.R.S. § 28-1144(B) before transporting a houseboat authorized by the envelope permit. This notification shall include at least the following information:
  - a. The number of the authorizing envelope permit;
  - b. The date of transport;
  - c. The transport origination;
  - d. The transport destination;
  - e. The name and hull identification number of the houseboat being transported;
  - f. The overall length, height, and width of the vehicle and load combination;
  - g. The overall gross weight of the vehicle and load combination; and
  - h. The total number of axles on the vehicle and load combination;
3. Notify the Department each time information submitted under subsection (B)(2) of this Section changes by submitting a new notification to the Department; and
4. Complete the notifications required under subsections (B)(2) and (3) of this Section electronically through the Department's web site at [www.azdot.gov](http://www.azdot.gov).